UNITED
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Security Council

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S/1994/40
17 January 1994

ORIGINAL: ENGLISH

NOTE VERBALE DATED 12 JANUARY 1994 FROM THE PERMANENT REPRESENTATIVE OF BRAZIL TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Brazil to the United Nations presents his compliments to the Secretary-General and, pursuant to paragraph 13 of Security Council resolution 883 (1993), has the honour to inform the latter that Decree No. 1,029 of 29 December 1993 has enforced in Brazilian territory resolution 883 (1993) adopted by the Security Council on 11 November 1993.

For ease of reference, copies of the decree* and of its translation into English are hereby attached.

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* The text of the decree may be consulted in room S-3545.

94-02645 (E) 170194 170194

UNITED
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NOTE VERBALE DATED 13 JANUARY 1994 FROM THE PERMANENT MISSION OF NICARAGUA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Nicaragua to the United Nations presents its compliments to the Secretary-General and has the honour to provide him with the following information on measures taken by the Government of Nicaragua in accordance with the provisions of Security Council resolution 883 (1993) of 11 November 1993:

1. The Government of Nicaragua reiterates the commitments it made to the United Nations in its note to the Secretary-General of 29 April 1992 (S/23873) concerning the implementation of resolution 748 (1992).

2. Instructions have been sent to Nicaraguan State institutions to freeze the term-deposit funds of the Libyan Central Bank in the Central Bank of Nicaragua and such interest as is generated by those funds. Similarly, action has been taken to freeze funds generated by the earnings of Sociedad Agropecuaria Nicarabe Libia para el Desarrollo: as a result, the repatriation of funds deposited or of earnings generated by the Libyan part of this undertaking is prohibited and such funds may not be made available to or for the benefit of the Libyan Government or public authorities or any Libyan undertaking, in accordance with the terms of resolution 883 (1993).

3. No commercial transactions whatsoever are conducted with Libyan Arab Airlines from or to Nicaraguan territory: there is therefore no supply, construction or maintenance of aircraft of or for that airline, and Nicaragua provides no advice, assistance or training to pilots.

In conformity with its policy of dialogue and reconciliation, the Government of Nicaragua reaffirms its willingness to support the measures taken by the Security Council and the Secretary-General to find a prompt and peaceful way of solving this dispute.

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**UNITED NATIONS** **S**

**Security Council**

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GENERAL

S/1994/42
17 January 1994

ORIGINAL: ENGLISH

NOTE VERBALE DATED 14 JANUARY 1994 FROM THE PERMANENT REPRESENTATIVE OF POLAND TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Poland to the United Nations presents his compliments to the Secretary-General and has the honour to convey the following communication received from the Government of Poland:

"Pursuant to Security Council resolution 883 (1993), the Government of Poland has the honour to report to the Secretary-General of the United Nations that administrative and legislative measures have been taken in order to meet the obligations set forth in paragraphs 3 to 7 of the above-mentioned resolution.

"At the same time, the Government of Poland wishes to emphasize that strict compliance with resolution 883 (1993) and its implementation will have a negative impact on the Polish economy, since the Libyan Arab Jamahiriya is a trading partner of Poland. Consequently, the Government of Poland would like to express its hope that the Security Council will consider appropriate measures to alleviate potential losses resulting from the implementation of the above-mentioned resolution in accordance with Article 50 of the Charter of the United Nations."

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94-02657 (E) 170194

UNITED
NATIONS

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Security Council

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S/1994/43
17 January 1994

ORIGINAL: ENGLISH

NOTE VERBALE DATED 4 JANUARY 1994 FROM THE PERMANENT MISSION OF MALTA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Malta to the United Nations presents its compliments to the Secretary-General and, with reference to Security Council resolution 864 (1993), has the honour to report on measures instituted by Malta for meeting the obligations set out in paragraphs 19 to 25 of the said resolution adopted by the Security Council on 15 September 1993.

The provisions of Security Council resolution 864 (1993) have been brought to the attention of all government ministries for necessary action towards the effective implementation of the said resolution. In fact, reports received from the government ministries and departments confirmed that the measures contemplated in the resolution are being implemented.

In this regard, Malta is complying fully with the obligations set out in the said resolution. A government legal notice (No. 776) published in the Malta Government Gazette on 16 November 1993 amended Export (Control) Regulations to ensure compliance with the above-mentioned Security Council resolution.

Malta wishes to state that it is the consistent policy of the Government of Malta not to produce or export arms and military equipment to other countries at all times.

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94-02663 (E) 170194

UNITED
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Security Council

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GENERAL

S/1994/44
17 January 1994
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 13 JANUARY 1994 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit herewith a table showing the explosions resulting from the various bombs, missiles and other matériel found and disposed of in the various parts of Iraq from 1 to 31 December 1994. The total was 135 (one hundred and thirty-five) bombs and missiles of various types.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

Enclosure

Table B

| Governorate | Number and type of matériel found |
|---|---|
| 1. Najaf | 3 (three) 60-mm mortars<br>3 (three) RPG-7 rockets |
| 2. Basra | 18 (eighteen) 82-mm mortar shells<br>5 (five) American-manufactured spherical bombs<br>3 (three) propellant charges<br>2 (two) RPG-7 rockets<br>1 (one) TOW anti-tank missile |
| 3. Maysan | 13 (thirteen) American-manufactured cluster bombs<br>1 (one) helicopter-launched missile |
| 4. Ninawa | 12 (twelve) American-manufactured PLUG-7 cluster bombs<br>73 (seventy-three) American-manufactured spherical bombs |
| 5. Diyala | 1 (one) 130-mm artillery shell |
| 6. Babil | 1 (one) RPG-7 rocket |

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GENERAL

S/1994/45
17 January 1994

ORIGINAL: ENGLISH

# LETTER DATED 14 JANUARY 1994 FROM THE PERMANENT REPRESENTATIVE OF BOSNIA AND HERZEGOVINA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to present to you the attached letter from the Mayor of the city of Tuzla, dated 14 January 1994.

May I ask for your kind assistance in circulating this letter as a document of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador and
Permanent Representative

Annex

Letter dated 14 January 1994 from the Mayor of the city of Tuzla addressed to the President of the Security Council

I regret to inform you that today, 13 January 1994, Serb forces positioned on the Mount Majevica shelled the city of Tuzla and areas in its immediate vicinity. Projectiles of high calibre and of great destructive power were fired at civilian targets, wounding many citizens.

Allow me to remind You, Excellency, that Tuzla has been declared a safe zone according to the provisions of Security Council resolution 836. Accordingly, the international community has committed itself to protecting the city of Tuzla where more than 170,000 civilians live in a densely populated urban area. There are no military targets in the city.

Despite Security Council resolution 836, the Serb aggressor has almost every day in the last two months shelled civilian targets in Tuzla, and in several instances, fired surface to surface missiles, with the intent of causing as many casualties among the civilian population and further endangering the lives of Tuzla's citizens.

Over the last ten days, the Clinical and Medical Center of the city of Tuzla has come under heavy artillery attack - one more in the line of crimes perpetrated by the Serb forces.

At present, (9.30 a.m. CET) while writing this letter, the city centre is under heavy mortar attack. It is reported from the Clinical and Medical Center that there is a high number of killed and wounded civilians.

We urge the NATO Alliance to implement resolution 836 of the Security Council, declaring Tuzla a safe area. The passive approach of the international community and the lack of political will only encourage the Serb aggressor to unabatedly continue with the crimes against humanity.

Mr. Selim Beslagic
Mayor
The city of Tuzla

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General Assembly
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17 January 1994

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
MAINTENANCE OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-ninth year

Letter dated 13 January 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the statement by the Ministry of Foreign Affairs of the Federal Republic of Yugoslavia concerning the incident on the Yugoslav-Albanian border on 10 January 1994 (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the forty-ninth session of the General Assembly, under the item entitled "Maintenance of international security", and of the Security Council.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

ANNEX

Statement by the Ministry of Foreign Affairs of the Federal Republic of Yugoslavia concerning the incident on the Yugoslav-Albanian border on 10 January 1994

The Federal Ministry of Foreign Affairs expresses its most serious concern over the escalation of border incidents on the Yugoslav-Albanian border and the continued intensification of provocations by the Albanian side in which the territory of the Federal Republic of Yugoslavia is violated. We wish to bring to the attention of the Yugoslav, Albanian and international public that the latest tragic incident in the area of the "Morina" border post of 10 January, in which an Albanian citizen was killed deep in the Yugoslav territory, unfortunately confirms our previous assessments.

In order to accomplish its greater-Albania territorial aspirations at the expense of the Federal Republic of Yugoslavia, the Albanian leadership deliberately encourages illegal crossings of the Yugoslav-Albanian border, in wanton disregard for the lives of its own citizens.

Continued provocations of border incidents confirm that the policy of the Albanian Government is aimed at making irrelevant its international border with the Federal Republic of Yugoslavia, accomplishing its greater-Albania aspirations and arousing tensions in, and destabilization of, the Balkans at large.

The Federal Republic of Yugoslavia expresses once again its readiness to develop good-neighbourly relations with Albania, as well as its firm determination resolutely to protect its sovereignty and territorial integrity.

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Security Council

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18 January 1994
ENGLISH
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GENERAL ASSEMBLY
Forty-ninth session
THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT
OF A FIRM AND LASTING PEACE AND
PROGRESS IN FASHIONING A REGION
OF PEACE, FREEDOM, DEMOCRACY
AND DEVELOPMENT

SECURITY COUNCIL
Forty-ninth year

Note by the Secretary-General

The attached document contains the report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL) covering the period from 1 August to 31 October 1993. As will be recalled (see S/23999, para. 3), it was decided that the work of ONUSAL in relation to the San José Agreement on Human Rights (A/44/971-S/21541, annex) would continue to be the subject of a separate series of reports.

ANNEX

# Ninth report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL)

(1 August-31 October 1993)

## I. INTRODUCTION

1. In order that the reports of the Human Rights Division would appear at intervals that would enable the Secretary-General, the Security Council and the General Assembly systematically to monitor the developments in the human rights situation in El Salvador, the Director of the Human Rights Division decided that, starting in January 1993, the Division's reports would be submitted quarterly. The sixth, seventh and eighth reports were prepared on this basis and as they covered a 90-day period they were bound to reflect an analysis of the short-term situation.

2. This approach was described in the Division's eighth report in the following terms: "the methodology used in the reports takes as a point of reference the changes in the human rights situation over the three months analysed in each report. Thus, the reports do not necessarily reflect trends, but rather, situations at different points in time. Analysis of trends will be included in the ninth report ...". This intention was based on the need to couple short-term analysis with a broader vision examining the quantitative data on a composite basis and making possible a qualitative approach to identifying trends in the evolution of the human rights situation in the country.

3. This report has been written with this purpose in mind. It therefore has a twofold aim of providing an analysis of the short-term situation during the three-month period from August to October 1993 and assessing trends in the human rights situation over a combined ten-month period (January to October 1993).

## II. ANALYSIS OF THE SITUATION IN AUGUST AND SEPTEMBER 1993

### II.1 OVERALL ASSESSMENT OF THE SITUATION: A SERIOUS DETERIORATION

4. The ambivalent human rights situation in El Salvador described in the eighth report, which was a cause for concern owing to the increase in arbitrary executions and the activities of illegal armed groups, including the so-called death squads, took a serious turn for the worse between August and October. As regards institutional developments, however, the Government continues to make considerable efforts in the area of legal reform by promoting laws that guarantee respect for human rights.

5. Over the past few months, various national institutions, especially the archbishopric, repeatedly reported killings attributed to the so-called "death squads".

6. Similarly, in its seventh report issued on 2 July 1993, the Human Rights Division of ONUSAL had noted that "concerning the extreme violations of the right to life which have occurred, the Salvadorian Church and non-governmental organizations have sounded the alarm regarding the possibility of a reactivation of the so-called "death squads" (A/47/968, para. 17), adding that "... there is no doubt that there have been homicides which bear the signs of having been organized and involving methods and procedures similar to those which, in the past, were used by the death squads" (ibid., para. 18).

7. In the press release on the eighth report, issued on 22 October 1993, the Human Rights Division expressed its profound concern about "the activities of death squads" adding that such groups went by names used in the past such as "Ejército Secreto Anticomunista" and "Brigada Maximiliano Hernández Martínez"; at the same time, other organizations such as the self-styled "Frente Revolucionario Salvadoreño" (that have thus far issued only death threats) and "Escuadrón los Angeles de la Muerte" (responsible for various threats, including some of the recent ones in Chalchuapa, and two "private justice" murders in La Fosa community). In the eighth report, the Division recalled that "politically motivated human rights violations have been more open and are rendered more serious because of the electoral context the country has entered" (A/47/1012-S/26146, para. 112).

8. A few days later, on 25 October, while he was dropping his youngest daughter at a day-care centre, Mr. Francisco Ernesto Velis, former guerrilla commander and member of the National Council of the Frente Farabundo Martí para la Liberación Nacional (FMLN) party was violently killed when three shots were fired at his head. On 26 October, in the locality of Guazapa, Mr. Medardo Brisuela Hernández and his wife Justa Victoria Orellana Ortiz were killed at their home. The wife was shot to death while breast-feeding her baby daughter, who escaped unscathed. The murdered couple were FMLN militants. On 26 October, Mr. Salvador Guzmán Pérez, a suspect in the murder of Mr. Oscar Grimaldi, FMLN member and logistics officer of the Fuerzas Populares de Liberación (FPL), was found murdered at Los Planes de Renderos. The order for his arrest had been received the previous day by the Criminal Investigation Commission. On Saturday, 30 October, Mr. Eleno Hernán Castro, alias "Comandante Carmelo", was shot to death on the coast road near Santa Cruz Portillo. At the time of his death he was a member of the National Council of FMLN, the National Subcommission on Lands and of the Political Committee of the Partido Revolucionario Salvadoreño (PRS) - Ejército Revolucionario del Pueblo (ERP). On 3 November, Mr. José Gabriel Quintanilla, FMLN coordinator in the Department of San Miguel was attacked by three persons dressed in black who tried to execute him when he came out of his house in the town of San Jorge. The assailants riddled their victims with bullets. Although he was hit by four bullets in the chest and thorax he did not die but was seriously wounded. On 2 November, Mr. Sebastián Araniva Salamanca, member of the Alianza Republicana Nacionalista (ARENA) party and municipal councillor of the Municipality of Chinameca was assassinated.

9. This list of complaints of killings which were accepted by ONUSAL as arbitrary or extralegal executions forms part of a series of violations of human rights that include the attack on Dr. Vásquez Sosa, Minister of Health, on 7 December; the death threats issued on 21 October by the Brigada Maximiliano

Hernández Martínez against Dr. José María Méndez, a distinguished Salvadorian lawyer and Dr. Francisco Lima, candidate of Convergencia - FMLN for vice-president; the anonymous death threats against Dr. Juan Mateu Llort, Director of the Institute for Forensic Medicine, reported by the victim on 1 November; and the complaints made by Mr. Humberto Centeno about the tapping of the telephones of some members of parliament and other prominent people.

10. Reports of acts of intimidation against national institutions and diplomatic missions have also begun to be received. Unidentified persons placed explosives on the premises of the National Public Security Academy and the Embassy of Mexico; they also sent threatening messages to the office of the Pan American Health Organization and to a female staff member of the International Organization for Migration. On 1 November, following the burial of Eleno Castro, demonstrators burned tyres and threw Molotov cocktails at the premises of El Diario de Hoy. Those events were also unanimously condemned by all the country's political and social sectors, as well as by the international community including the Inter-American Press Association (IAPA). On 25 September, the self-styled "Escuadrón Los Angeles de la Muerte" distributed pamphlets in Chalchuapa that warned ONUSAL in a threatening manner not to interfere in its activities.

11. Between 1 August and the time when the drafting of the present report was completed (15 November) the active verification conducted by ONUSAL dealt with 47 complaints of human rights violations which adduced evidence and information pointing to the possibility of political motivation either because of the victim's position, the methods used or the material characteristics of the violation. The investigation of those cases must necessarily consider the assumption of political motivation as a reasonable one that could establish the motives or give the investigation the necessary breadth to clarify any doubts about the facts. Of the complaints 10 related to arbitrary or extralegal executions (José Santos Vásquez, Oscar Grimaldi Gutiérrez, Rafael A. Nolasco Acosta, Angel Alfaro Enríquez, Francisco Velis Castellanos, Joel Antonio Hernández, Medardo Brizuela Hernández, Odil Miranda, Manuel de Jesús Acevedo, Eleno Castro Guevara); three related to attempted arbitrary executions (Humberto Solórzano Cerén, Osmín Machado and José Gabriel Quintanilla); 14 related to death threats (Francisco Lima, José María Méndez (members of the Fundación 16 de Enero), René Mercadel Perla Jiménez, Israel Aguilar Payés, José Alberto Morales, José Francisco Valdez (members of the San Miguel FPL), Porfirio Pérez, Miguel Angel Hernández, Enrique Ardón Martínez, José Tránsito Alas Regalado, Agustín Barrera, Oscar Manuel Ortiz, Jesús Amado Pérez Marro, Celina Yolanda Díaz García, Lorena Peña Mendoza, Luis Enrique López Díaz, José Antonio Cornejo and Mario García Cortés); nine related to intimidatory threats (Francisco Arévalo, Reinaldo Castaneda, Nélida Elizabeth Martínez, Nelson Napoleón García, Fredy Rosas Alvarado, José A. Rivera Velázquez, Carolina Guardado and members of the Santa Tecla and Soyapango FMLN); one related to arbitrary detention (Luis Antonio Menjívar); one related to a case of ill-treatment (Walter Gómez); two related to abductions (Medardo Alfredo Quijano Arriola and José Alberto Orellana); and one related to violation of the right to freedom of association (various teachers). The possible political motivation in some of those cases, such as that of Eleno Castro, "Comandante Carmelo", may be ruled out by the findings of the

investigation. However, as in this case, such a conclusion must be the outcome of the investigation and not an a priori assertion. This is vital for the transparency and credibility of the investigation.

12. These acts of selective violence have undoubtedly been a significant political factor in the life of the nation. They had a profound impact both on developments in the human rights situation and on important aspects of the peace agreements and the recommendations of the Commission on the Truth which, having a bearing on the protection of human rights, are encountering obstacles to implementation or concerning which no decisions regarding implementation have yet been taken.

13. All the cases referred to in the preceding paragraphs show how serious and widespread the deterioration of the human rights situation in El Salvador is. An analysis of these cases indicates that there is an upsurge in political violence including the activities of illegal armed groups known in the country as "death squads" and that this upsurge coincides, on the one hand, with the formal launching of the electoral campaign and, on the other hand, with the final phase of the implementation of the peace agreements and the presence of ONUSAL as the institutional expression of international verification. However, it is encouraging that the Government itself has not only condemned such acts but has also taken a number of decisions that demonstrate the political will of the President of the Republic to investigate each case and mete out appropriate punishment to those found responsible for violations. The Government's initiative to allow criminal investigation bodies from the United States of America, the United Kingdom and Spain, to collaborate in the investigations, as well as its manifest willingness to set up a unit to investigate illegal armed groups, as suggested by the Secretary-General, are clear indications of its commitment to clarify the facts.

14. The elections planned for March 1994 represent a unique and decisive milestone in the history of the country and in the process of implementing the peace agreements. In a way, for the first time in the political history of El Salvador, the electoral process will be conducted on the basis of standards reflecting the rule of law, without excluding any social sector or political force, and under the international monitoring of the United Nations. From this point of view, whatever the election results, they will confirm in practice the new political and institutional system arising out of the peace agreements. The transparency with which the competent authorities have been organizing the elections constitutes a safeguard that should be mirrored in the field of human rights.

15. In this context, the current violence with its evident political repercussions and the acts of the so-called "death squads" are not directed against broad social sectors and political groupings, as in the past. This violence is not like that of the 1980s, when one group defended the established system and the other fought to change it. That situation was expressly resolved by the peace agreements, through the constitutional, political and institutional reforms that the parties formerly in conflict agreed to by consensus, with the support of all other political forces.

16. Rather, the current violence is directed against the democratic political system which has been worked out by the Government and FMLN, with the support of all political forces, with the aim of building up through consensus the rule of law and a stable and functioning democracy. Thus, the acts of political violence which have occurred during the period covered by this report reflect the intransigence of fringe elements attacking the Salvadorian nation as a whole, all national political forces and the democracy proposed in the peace agreements. The Human Rights Division must state that, in the active verification process it has conducted in investigating the cases referred to it, it did not find any indication or evidence of any institutional involvement of the State in these violations. Therefore, it can affirm that they do not compromise the Government as an institution; on the contrary, this selective violence seems to be directed against all democratic political forces, including the Government of El Salvador itself, which, as a party to the agreements to which the substantive obligations of the peace process were assigned, has taken historic steps, together with FMLN and the other political forces in the country, towards the progressive establishment of an effective democratic political system based on the rule of law.

17. The nation-wide rejection of political violence clearly bears out this judgement. Political violence has been unanimously rejected throughout the country, including by the Government and all political parties, the Catholic Church, non-governmental organizations, labour organizations and trade unions. As the broad majority was turning against the resurgence of political violence, the Secretary-General, in a letter to the Security Council dated 3 November 1993, wrote concerning the Velis case: "On 25 October, I learned with shock and profound sadness of the execution, in death-squad style, of a leader of FMLN". He further noted that the deaths of Francisco Ernesto Velis and Eleno Castro followed other acts of violence and human rights violations in recent months, thus increasing concerns that illegal groups had resumed their activities. Summing up the impact of those killings, the Secretary-General wrote "Be that as it may, those murders have had a nefarious impact on the political climate and have undermined confidence in the peace process" (S/26790, para. 87).

18. Subsequently, from 8 to 11 November, the Under-Secretary-General for Political Affairs, Mr. Marrack Goulding, visited San Salvador to assist in working out the structure of the mechanism for investigation of illegal armed groups in accordance with the frame of reference provided by the Secretary-General in his report to the Security Council. The establishment of this mechanism embodies the national Salvadorian view that the activities of such groups should be brought to light and their leaders punished, as a welcome expression of the strength of the democratic process and the authority of the law in a State governed by the rule of law.

19. In unison, with the national consensus that has emerged regarding the need to stop all acts of political violence and to conduct an immediate and independent investigation of the activities of illegal armed groups, the international community has also expressed its profound concern over the events which rocked the country in October and warned of the consequences that political violence could entail for the process of implementing the peace agreements. Undoubtedly, situations such as those reported are related to the

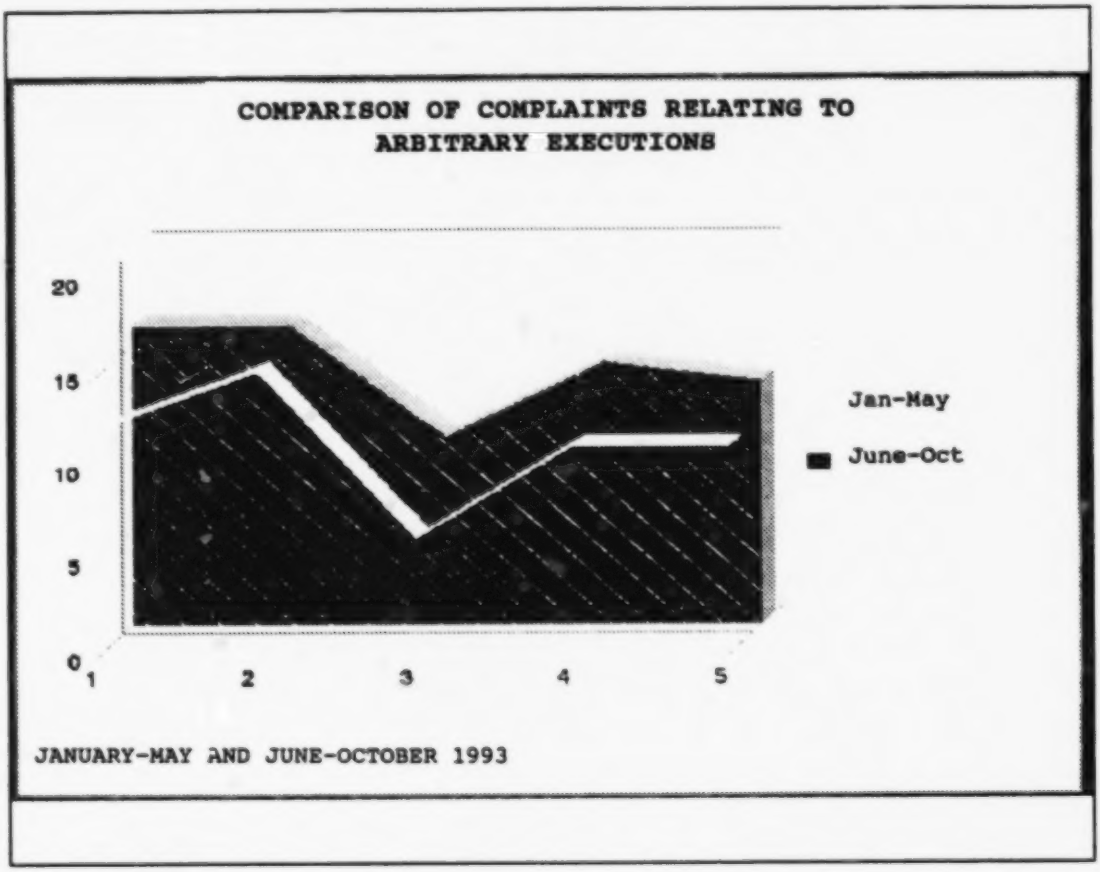
difficulties encountered in recent months in properly implementing the recommendations of the Commission on the Truth and the agreements on which action has yet to be taken. In a commendable reaction, broad support has emerged for more rigorous steps to implement the peace agreements and the recommendations of the Commission on the Truth, as part of a process intended ultimately to provide the legal and institutional means to eradicate violence through the vigorous exercise of a democratic legal system.

## II.2 REVIEW OF ACTIVE VERIFICATION OF THE SITUATION OF HUMAN RIGHTS

### A. Right to life

20. During the period covered by this report, violation of the right to life became worse in qualitative terms, owing to the acts of violence that have disrupted the country's political life. This calls for a response from the State and society at large in order to prevent the deterioration of the objective and subjective conditions necessary for the protection of life, security and integrity of person. It highlights once again the problem of impunity. The killers of Francisco Ernesto Velis, Eleno Castro, Sebastián Araniva Salamanca and other national political figures must not and cannot go unpunished, without seriously damaging the legitimacy of democracy and the State's ability to fulfil its duty to provide safeguards and to ensure respect for the law.

21. The Government has responded by forming the Interinstitutional Investigation Commission for the investigation of reports on extralegal or arbitrary executions that contain indications or evidence of political motivation or direct or indirect responsibility of agents of the State. Within this Commission, an Interinstitutional Investigation Group has been established that is currently responsible for investigating the deaths of Ernesto Velis and Eleno Castro, among others. The Commission is headed by the Minister and Chief of Staff in the Office of the President, and is composed of representatives of the Office of the Attorney-General, the National Civil Police, the Criminal Investigation Commission, the State Intelligence Agency and the Presidential Commissioner for Human Rights. The investigation of the cases of Commanders Castro and Velis is also receiving assistance from police bodies from the United States, Great Britain and Spain.




22. After the sixth report of the Human Rights Division was issued and later, through direct communications with the Chief of Staff in the Office of the President, the Director of the Division suggested the need for an independent mechanism to investigate extralegal or arbitrary executions. As indicated in the seventh report, the Government initially stated that it had difficulty with conducting the investigations through an ad hoc commission rather than through the existing institutional channels only. Bearing in mind the substance of its recommendation ONUSAL agreed to the establishment of a consultation mechanism on the assumption that the political will expressed by the Government would lead to effective investigations. However, this mechanism proved to be inadequate; for this reason the Human Rights Division, in direct communications with the Government, reiterated the urgent need to form an independent investigation commission that would be effective and autonomous, capable of gaining the people's confidence in the State's ability to investigate and punish violations of the law.

23. The establishment of the Interinstitutional Commission is certainly an improvement over the consultation mechanism and an expression of the political will to expose crimes. However, independent of the investigations that are being conducted at present, and without prejudice in any way to their outcome - which it hopes will be successful - the Human Rights Division feels constrained to point out that the composition of the Commission does not necessarily reflect the desired independence of judgement. There is, for example, the involvement of the political power of the State in the bodies legally responsible for criminal investigation, while the Office of the National Counsel for the Defence of Human Rights, which has broad constitutional powers to investigate human rights violations on a quasi-jurisdictional basis, is not represented. In that connection, the Secretary-General reported to the Security Council on 29 October that the Interinstitutional Commission "did not meet United Nations criteria for the investigation of summary executions" (S/26790, para. 11), but that in compliance with its observation function, ONUSAL has none the less been closely following the work of the subgroup.

24. The composition of the Interinstitutional Commission must be brought into line with the recommendations of the Human Rights Division and United Nations standards and criteria for the investigation of extralegal executions so as to ensure its autonomy. Thus, the National Civil Police and the Office of the National Counsel for the Defence of Human Rights, the Office of the Attorney-General and a representative of the National Human Rights Coordinator should become members of the Commission. Such a step would signify the Government's confidence in the State and society, and would be an encouraging expression of a determination to punish violations of the right to life under the law. Likewise, it would be conducive to social and political stability, which, to ensure a suitable "climate" of legality and neutrality in the electoral process now under way, requires the existence of a body that the people recognize as effective and legitimate, in the common task of defending life and the law.

25. The Human Rights Division has also called attention to the standards and procedures recommended by the United Nations for the effective prevention and investigation of extralegal or arbitrary executions, specifically, those contained in the Principles and Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions and in the Declaration of Basic Principles of Justice for the Victims of Crime and Abuse of Power.

1. Deaths resulting from the violation of juridical guarantees and arbitrary or extralegal executions

26. During the reporting period a total of 36 complaints of extralegal executions were received, as against 43 during the previous period. While the figures show a decline in the number of complaints received, in qualitative terms the situation has seriously deteriorated as a result of the selective targeting of victims, the considerable increase in cases in which there are indications or evidence of political motivation, the methods utilized and the existence of disturbing signs in the investigatory process.

27. The addendum to this report contains a summary of the results of active verification of the main complaints that have been declared admissible. Some cases, such as the case of the former commanders Velis and Castro, owing to their nationwide political impact, have become the subject of investigation by the recently established Interinstitutional Commission, which, at the time this report was being prepared, had not yet completed its inquiry. The Human Rights Commission has also been engaged in active verification of these cases in pursuance of the San José Agreement and will make public its findings as soon as it completes its investigation.

28. On 18 August the complaint concerning the summary execution of Mr. Oscar Grimaldi, a member of FMLN responsible for logistical operations of the Fuerzas Populares de Liberación (FPL), was declared admissible. He was killed on that same day by persons unknown who had entered a restaurant in the locality of Santa Tecla and shot him. An investigation led to the establishment of the identity of the suspected perpetrator. On 25 October, after personnel of the Human Rights Division unsuccessfully tried to induce the Commission for the Investigation of Criminal Acts to take steps to apprehend the suspected perpetrator in order to "confront him" with the witnesses to the crime, the Director of the Division went to the above-mentioned locality and impressed upon the authorities the urgency of apprehending the suspect, since the information which ONUSAL had concerning his whereabouts would not be accurate indefinitely.

29. The Commission for the Investigation of Criminal Acts indicated that no action had been taken to apprehend the suspect since a court order had not been issued, but an order arrived that same day and steps were taken to arrest the suspect the following day, i.e. 26 October. In the early morning of 25/26 October, the suspect, Salvador Guzmán, was found shot to death in the area known as Los Planes de Renderos in San Salvador. Initially, no official autopsy was performed, since it was reported that he had acquired immune deficiency syndrome. Subsequently, an order was obtained to exhume the body and to perform an autopsy, a measure which was to be verified by ONUSAL. The ONUSAL legal officers responsible for the verification were informed that the autopsy would take place on a specific date, but it had actually been performed some days earlier. Although the suspected killer of Salvador Guzmán was identified from the beginning, he has still not been arrested.

30. This case, which follows a pattern of events that has been repeated, is a cause of profound concern to the ONUSAL Human Rights Division, first, because it represents a practice that is used; secondly, because of the delay in issuing the court order itself; and thirdly, because the death of the suspected

perpetrator could once again result in impunity for an arbitrary execution that was significant owing to the victim's political position, the circumstances of the killing and the impact it had on the country's political life.

31. It is obvious that, in situations such as the one described above, the State has been seriously remiss in its duty to provide guarantees, that basic standards of proper criminal investigation are being circumvented, and the rules of due process, such as those relating to autopsies, are being violated, all of which results in a climate of impunity that poses the main threat to the right to life at the present time.

32. On 3 September 1993, Francisco Arturo Pleitez Lemus, judge of the San Salvador First Criminal Court, aged 49, was beaten to death in front of his house by unknown individuals who had been waiting for him near the doorway as he returned home. This killing has once again raised doubts about the safety of judges. Investigation so far has not uncovered a motive or identified any suspects in the killing of Judge Pleitez Lemus.

33. Angel Alfaro Henríquez, a 56-year-old farmer and FPL-FMLN official in the hamlet of Chilamas, San Francisco El Jiote canton, Zaragoza township, in the Department of La Libertad, was killed on 4 September 1993 at his home in the hamlet of Chilamas, by two individuals who fired a rifle and stabbed him with a machete. The two men, wearing military uniforms, had arrived at the victim's house at approximately 8 p.m., one of them wearing a kerchief typical of FMLN over his face. The latter was carrying a machete and the other a 22-calibre rifle. At the scene of the crime were the victim, his long-term companion Marta Gutiérrez, the 11-month-old nephew of Angel Alfaro Henríquez whom Marta Gutiérrez was holding in her arms, and a neighbour, Herminio Platero. Using a gun they kept Platero covered and subdued him, tying him up and blindfolding him. They later subdued Alfaro Henríquez, tied him up and blindfolded him also, saying that they were going to kill him. They then fired on him at point-blank range when he was lying unable to move on the ground. After the victim had been struck by the bullet, he turned to the attacker with the kerchief covering his face and said that he knew who he was. The assailant ordered the other to finish off the victim, which he then did with a machete. Marta Gutiérrez states categorically that the man wearing the FMLN-style kerchief is Francisco Ramírez, who serves as a military policeman in the port of La Libertad and who frequently visited her house.

34. José Santos Vásquez, a member of FMLN at Acajutla, was executed on 14 September 1993 by five armed individuals wearing uniforms who had been waiting for him in the vicinity of his home. Approximately one hour earlier, the perpetrators had searched his house and another adjoining house, ordering the occupants to remain inside lying down. In the light of the judicial investigation conducted by the justice of the peace of Acajutla and the verification carried out by ONUSAL, there are grounds for believing that an individual may have used agents of the National Police to commit this crime, possibly for political motives.

35. Francisco Veliz Castellanos, member of the Political Committee of PRTC, member of the National Council of FMLN, candidate for alternate deputy, former Commander of END during the armed conflict and Director of Public Opinion of

ASPAD (Asociación Salvadoreña para la Paz y la Democracia), was killed on 25 October 1993 on North 39th Avenue in San Salvador, where the "Centro de Desarrollo Infantil" kindergarten is situated, while he was dropping his daughter there. The body was found face down in a grassy area between the street and the pavement outside the kindergarten, with the feet hanging out into the street. Pieces of brain tissue and bone fragments were found scattered within a radius of 6 to 8 metres from where the body lay.

36. The fact that no gunpowder burns were found on the body and that no witness could report having clearly heard a shot may be due to the fact that a silencer was used on the weapon, since, in the opinion of the police, the powder remains on the weapon, thereby preventing formation of a powder burn. The fact that some witnesses heard a sound could be explained by the fact that the silencer was of the "home-made" variety. The rapidity with which the crime was committed, its organization and efficiency, and the fact that no personal property or his vehicle were taken from the victim, who had the keys to the automobile in one of his trouser pockets, in addition to several other facts (the killers changed their shirts) supports the theory that the aim of the attack was clearly to kill the victim. In addition, in view of the victim's political position, the modus operandi of the crime, the efficiency with which it was carried out, the place and circumstances in which it occurred, the testimony given and the type of weapon used, the assumption of a political assassination is the most plausible so far.

37. Eleno Castro, an FMLN leader, former ERP commander and official of the FMLN land transfer programme, was killed on 30 October 1993 at kilometre 73 of the coast road. On that day, he had left San Salvador in the morning to travel to the city of Usulután to attend a meeting where the land issue was to be discussed. At approximately 9 a.m., while he was driving along in his vehicle, a collision occurred with another vehicle moving in the same direction which was overtaking him. The victim got out of his vehicle, as did a man and a woman who were riding in the other vehicle. According to witnesses, including several minors who were in the vicinity, a discussion ensued and an individual recognized as a farmer from the area used a firearm which he was carrying, hitting Eleno Castro with three bullets, while Castro was writing down on a piece of paper the registration number of the other individual's pick-up truck.

38. The woman who was driving the vehicle which collided with the victim has been placed under arrest pending trial. The woman is Mrs. Marina Isabel García de Rivas. The person accompanying her, the individual suspected of firing the shots, is her brother, Juan Arnoldo García, who is still at large. The statements made to the court by Marina Isabel García do not agree with this version of the facts. She stated to the judge that while she was driving her vehicle alone, it was intercepted by two men who got into it and then set off in pursuit of the vehicle driven by the victim; the two individuals allegedly caused the collision and then killed Eleno Castro. However, this testimony is subject to evaluation by the court, since there are contradictory statements from passersby who witnessed the crime and discrepancies in Mrs. García's own statements. In general terms, the investigations carried out by the Interinstitutional Investigation Group, which assert that the cause of the crime was a traffic dispute and identified Juan Arnoldo García as the suspected killer, have produced evidence that corroborates on most points the

investigations conducted by ONUSAL. However, judicial proof of Marina Isabel García's testimony and the arrest of Juan Arnoldo García are essential for establishing the facts definitively and reaching a conclusion regarding the motive for the crime. One factor which has had a positive impact on the investigation into this case and that of Francisco Ernesto Velis has been the Government's decision to seek technical assistance from the FBI, Scotland Yard and the Spanish Police.

39. In the early morning hours of 2 November, Mr. Sebastián Araniva Salamanca, the fourth deputy councillor on the Chinameca municipal council and member of the Alianza Republicana Nacionalista (ARENA), the governing party, was machine-gunned at his home by five heavily armed individuals, two of whom were wearing military uniforms, one bearing the insignias of the Third Brigade (San Miguel). Following the assassination, the killers searched the house and removed domestic appliances and other valuables.
Mr. Celestino Antonio Cerna Linares, the former mayor of Candelaria de la Frontera and member of the ARENA Executive Committee in that town, was killed in the early morning hours of 13 November at his farm in Casas de Teja canton. At that time, which was approximately 5.30 a.m., the victim had arrived in his vehicle at the barn on his farm, and, while getting out of his car, he was fired upon by at least two individuals. The victim attempted in vain to draw the weapon he was carrying when he was hit by four bullets in different parts of his body. The individuals took the victim's wallet and revolver and fled in his vehicle. The vehicle was later found abandoned on the old Santa Ana-San Salvador road. The judicial investigations are being conducted by the Magistrate's Court of Candelaria de la Frontera and the Second Criminal Court of Santa Ana.

40. At around midnight on 22 November, Marvin Alexis García Urbina, the brother of the mayor (ARENA) of El Rosario, in the Department of Morazán, and his wife, Rosa Albertina Luna, were awakened by persons unknown who had surrounded their house, situated in the locality of San Simón de Morazán. According to an eyewitness, one of the individuals was Marco Tulio Lima, who threw a grenade at the victim, causing his death. Lima, who is currently under arrest has stated that he is the leader of the Movimiento Auténtico Cristiano (MAC) of the locality.

41. Generally speaking, complaints concerning arbitrary execution, even in those cases in which a police investigation is promptly conducted, tend ultimately to result in impunity, either because the perpetrators are not identified or because, although identified, they are not physically apprehended. This is particularly serious in those cases in which, owing to the party activities of the victim, there is a strong presumption of a political motive for the crimes. The cases of Francisco García Grande, Eleno Castro and Oscar Grimaldi are typical in that, although the perpetrators have been identified, they have not been arrested. The Grimaldi case is particularly serious because the State was responsible for the failure to apprehend the suspect before he was, in turn, killed.

42. In this context, the Human Rights Division is conducting an investigation into impunity, especially with respect to complaints of arbitrary execution in which a political motive cannot a priori be ruled out or which are the result of

an organized crime. A preliminary finding of this investigation is that impunity has not declined and continues to be a major factor in the problems faced in the administration of justice, the violation of human rights and the alarming violence besetting the country. This situation is reflected in the following table.

IMPUNITY INDEX

| | |
|---|---|
| CASES CONSIDERED (94) | 100.00% |
| SUSPECTS IDENTIFIED | 53.00% |
| SUSPECTS NOT IDENTIFIED | 47.00% |
| SUSPECTS APPREHENDED | 8.52% |
| LEGAL PROCEEDINGS INSTITUTED | 57.55% |
| NO JUDICIAL PUNISHMENT | 47.42% |
| GUILTY PARTY SENTENCED BY THE COURT | 1.07% |

43. Although preliminary and subject to clarification, these figures give a rough idea of the seriousness of the problem of impunity, which, in the view of the ONUSAL Human Rights Division, represents the fundamental cause for the increase in human rights violations, and to a large extent, for the violence that is plaguing the country.

### 2. Attempted arbitrary or extralegal executions

44. According to the statistics, 10 complaints of attempted arbitrary execution have been declared admissible, one more than in the preceding period. These acts, as failed attempts to cause the death of the victim, represent a phenomenon akin to extralegal executions and, in this respect, they form part of a situation that poses a permanent threat to the right to life. During the period under consideration, four attempted arbitrary or extralegal executions were reported in which there were indications or evidence of political motivation: the cases of Humberto Solórzano Cerén; Osmín Machado; José Gabriel Quintanilla - which is especially serious in view of its brutality - and David Gilberto Vásquez Cea. Three of the victims are members of FMLN and one is a leader of the Asociación de Desmovilizados de la Fuerza Armada (ADEFAES).

45. On 3 November 1993, José Gabriel Quintanilla, FMLN coordinator for the municipality of San Jorge, Department of San Miguel, was ambushed by three individuals who were waiting for him at the entrance to his house. After threatening him, they shot him and fled without taking any valuables. On the day before these events, Mr. Quintanilla had reportedly coordinated the municipal convention of FMLN.

46. Humberto Antonio Solórzano Cerén, member of the Board of Directors of ADEFAES, a veteran of the Second Infantry Brigade, was a victim of an attempted arbitrary execution on 9 October 1993. On that day, while he was heading home on the old Santa Ana-San Salvador road, three individuals fired four 22-calibre bullets at him at point-blank range. After taking all of the papers he had with him concerning the association of which he was a leader, they left him on the road. Because he was taken promptly to the hospital at Santa Ana, where he underwent surgery, his life was saved. Investigations so far have failed to determine who was responsible for the attack. The victim maintains that the reason for the attack was precisely his activities in ADEFAES and his public criticism of the failure to provide benefits to which demobilized soldiers were entitled. Other ADEFAES members have complained about surveillance by the armed forces. In the morning of the same day on which the attack took place, he had been threatened at the headquarters of the Second Infantry Brigade of Santa Ana.

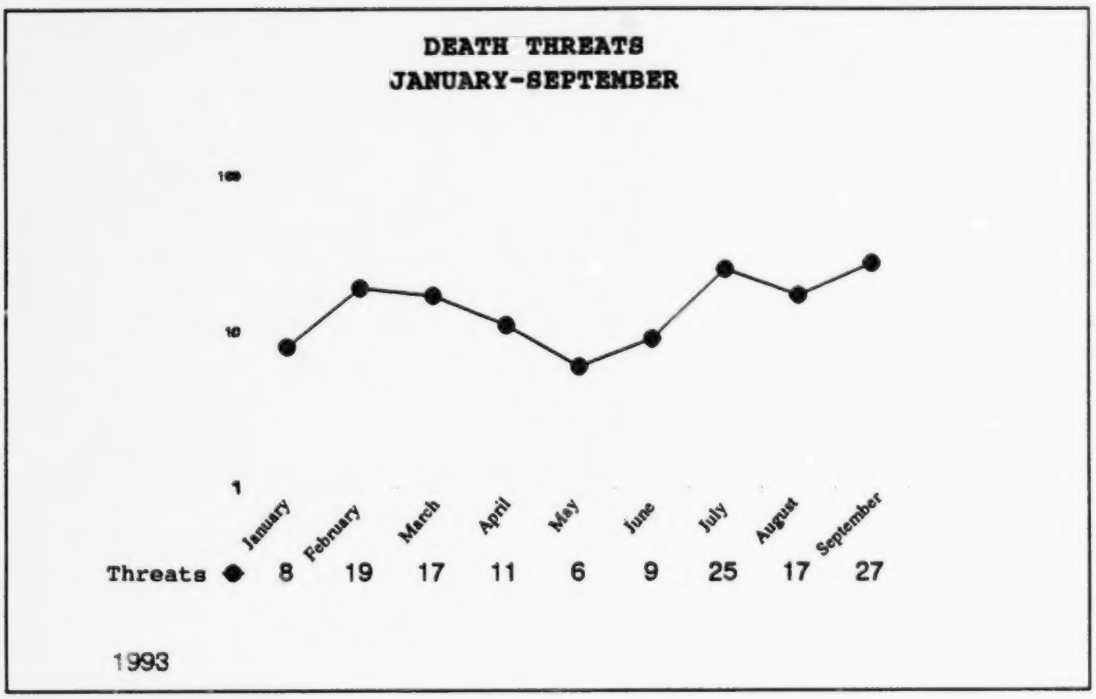
### 3. Death threats

47. As indicated repeatedly in the Division's reports, death threats constitute a violation of the right to life which has been constantly present in the country and is on the upswing. The increase in the number of threats appears to have coincided with the start of the electoral campaign, which, in turn, aggravates the situation in qualitative terms, since the death threats have begun to be used against candidates and political figures.

Although such cases are isolated, they do prompt thinking about the adoption of urgent measures by the Government authorities to ensure an electoral climate that respects legality and provides safeguards for the candidates' lives and integrity of person.

48. José Antonio Cornejo, member of FPL since its inception and the FMLN candidate for mayor of San Juan Nonualco, received at his home on 11 November 1993 a note signed by the Ejército Salvadoreño Anticomunista (ESA), threatening him with death if he continued to stand as a candidate. The note stated that persisting in his candidacy would entail serious consequences for his family and that, in addition, "if you were to have an accident, the FPL terrorists would be glad to give people a martyr of the death squads".

49. In the early morning of 3 September 1993, various unknown individuals entered the headquarters of the Communist Party, situated at 1-1 North 8th Avenue, in Santa Tecla (La Libertad). All the clues and evidence indicate that on that morning at least three individuals entered the building adjoining the Communist Party headquarters through the main entrance, went down a staircase, from which, while one stood watch, the others jumped into the interior courtyard of the headquarters, removed panes from the window of a bathroom and entered the building. Once inside, they went through all the rooms, opening filing cabinets and boxes and scattering documents about. Although they forced open the desk in the office, they did not remove any of the money that was inside.


DEATH THREATS
JANUARY-SEPTEMBER
January
February
March
April
May
June
July
August
September
Threats
8
19
17
11
6
9
25
17
27
1993

## B. Right to integrity of person

### 1. Torture

50. In the period from August to October, four complaints regarding torture were declared admissible, all of them submitted in the month of September. That figure is the highest recorded for the year. Those responsible are for the most part members of the National Police. The torture was not politically motivated but rather was intended to make the victims incriminate themselves or to obtain from them information for the anti-crime campaign. Three of the four complaints were verified: Manuel de Jesús Hernández, tortured by the National Police of San Miguel on 17 August; Carlos Alberto Durán Córdoba and other prisoners tortured by Mariona prison staff; and Oscar Antonio Salguero, tortured by the National Civil Police on 22 October. The authorities in the National Police, National Civil Police and Executive Anti-Drug Trafficking Unit have to give clear instructions to their subordinates about the illegalities of any act of torture, but still more important is the need to enforce the penalties mandated by law. The cases of torture indicated in the seventh and eighth reports of the Human Rights Division have gone unpunished to this day.

### 2. Ill-treatment

51. Slightly fewer complaints of ill-treatment were declared admissible than in the preceding period. There were 39 admissible complaints and, like those recorded between May and July, this represents an appreciable decline from the levels reached in the first months of the year. It is crucial for the National Police and the National Civil Police to continue applying rules and standards of conduct barring any ill-treatment, as discussed in the eighth report. If this slight downward turn develops in the coming months, it could eventually become a steady trend towards a decline in this type of violation. One important factor in the relatively lower number of complaints of ill-treatment might be the deployment of the National Civil Police.

## C. Right to security of person

### 1. Enforced or involuntary disappearances

52. During the period of conflict, El Salvador was one of the countries where the incidence of enforced or involuntary disappearances was highest. Enforced disappearance is a violation that usually indicates involvement by the State or by State officials in illegal actions that constitute a very serious breach of the law. With this in mind, the fact that no new enforced disappearances have been verified, even though eight complaints to that effect were received, is a salutary indication of the impact that the peace agreements and the new democratic institutions have had in keeping State officials within legal bounds with respect to a practice that in the past was serious and systematic. The fact that 16 months have passed without verification of any enforced or involuntary disappearances shows that this is a very positive trend.

### 2. Abductions and other threats

53. Six complaints of abduction were received, as against five in the previous period. The abduction victims have been mainly ranchers and farmers, who have also been subjected to assaults and extortion. Forty-three complaints of intimidatory threats were declared admissible during this period. It is a cause for concern that a large percentage of these complaints accuse persons ostensibly involved in political activities, or members of labour or trade union organizations. In the context of the electoral process, we are beginning to see the use of threats as an unlawful means of intimidating opponents, which clearly undermines the free exercise of political rights.

54. Medardo Alfredo Quijano Arriola and José Alberto Orellana were abducted on 17 August 1993. The two victims are former urban commandos of the Ejército Revolucionario del Pueblo (ERP) in Santo Tomás, involved in logistics. They are now health-care workers for the Asociación Salvadoreña de Promotores de Salud (ASPS), whose director is Dr. Miguel Orellana. The two men left the Lutheran University in Los Planes de Renderos and took a bus to the Apolo Cinema in San Salvador, where they transferred to another bus to go home to Santo Tomás. At approximately 6.30 p.m., as they tried to cross the street in heavy traffic, a car drew up and an armed man got out and forced Quijano to get in, making him lie face down. He then did the same with Orellana. Inside the car they were tied up, blindfolded and made to lie on the floor. They drove about in the car while being interrogated, and after some time they reached a house into which they were brought. Inside the house the questioning resumed in the presence of some young people (to judge by the voices). They were not beaten or mistreated. At dawn, they were once again put into the car and driven to a road where they were abandoned, after having their blindfolds and bindings removed and being told to walk without looking back, which they did. The interrogation consisted of questions like: "What does Dr. Miguel Angel Orellana Mendez do?"; "Do ERP and ASPS get together for political meetings?"; "What do you know about the militarized groups in Guazapa?"; "Do you do Party work?". The political motivation of the kidnapping seems obvious and it becomes more serious in the context of the electoral process.

## D. Right to liberty: arbitrary detentions

55. Arbitrary detentions continue to take place and they represent abuses of power that go unpunished. This seriously reduces any real possibility that the efforts which ONUSAL is making to cooperate with the National Civil Police will on the whole be successful. In this context again, impunity emerges as a factor that completely subverts any control over the legality of action by the National Police. It is obvious, furthermore, that the campaigns against ordinary violent crime always have a momentum of their own that culminates in violations of the right to liberty. Yet public order, which is both a need on the part of the citizenry and a duty on the part of the State, can be established by means of security policies that do not undermine the principle and practice of law-abiding police conduct. During this period, 68 arbitrary detentions were recorded, and a lesser number of detentions for "petty misdemeanours" (faltas de policía). However, these figures do not provide an accurate reflection of the phenomenon or its magnitude, since in most cases the people do not report

arbitrary detentions either for lack of confidence in the efficacy of the justice system or for fear of reprisals.

### E. Right to freedom of association and effective enjoyment of trade union rights

56. Despite the fact that the Forum for Economic and Social Consultation has encountered difficulties and obstacles in promoting concerted social action, the Human Rights Division could see that such difficulties are inherent in an area where there are divergent interests. It would therefore be unrealistic at this stage to expect a tripartite process of concerted action by the State, the society and the business world that would be free of problems, tension and even crises. Consequently, the value of any concerted economic and social action must be judged not in terms of the problems encountered but in terms of the capacity to identify them, work through them and resolve them through understandings and consensus arrangements.

57. The work being done in the Forum for Economic and Social Consultation justifies this approach, and it is possible to say that the operation of the Forum has on the whole been and is positive, for which praise must go to the attitude of the State, the workers and private business, which have found a way to deal with truly substantial difficulties and at the same time dealt with their differences by persevering in dialogue, thus gradually achieving encouraging results. On 25 August 1993, for instance, the Forum was able to break a previous deadlock and agree on a programme of work aimed at agreements to amend the labour laws, and also addressing the pending question of the ratification of International Labour Organization (ILO) conventions. An agenda was accordingly drawn up, and it included the elaboration of a new Labour Code, the Act organizing the Ministry of Labour and the Social Security Act.

58. Both ONUSAL and ILO have cooperated continuously in this process. Substantive progress was made in negotiating the provisions of the new Labour Code, collective bargaining rights and trade union freedoms being the only points on which agreement had yet to be reached. When completed, the new Labour Code will conform to ILO standards, guarantee the exercise of workers' rights and trade union freedoms and, especially, as the product of a coordinated effort, it will have a legitimacy that will make it a valid and effective legal text.

59. A very positive development of enormous importance was the decision of the three parties engaged in concerted economic and social action to establish a labour council within the Ministry of Labour, which, as a permanent and tripartite body, is intended to be a mechanism for concerted action and conciliation that can and must resolve various labour law questions quickly and efficiently, thereby becoming a factor for the stability indispensable for dynamic economic activity.

## F. Right to due process of law

60. In previous reports, the Human Rights Division provided objective information on continuing shortcomings in the administration of justice, but at the same time made it clear that the overall process of judicial reform, still at a rather intermediate stage, was on the right track. Many of the comments made by the Human Rights Division elicited communications from the Supreme Court of Justice, expressing agreement or disagreement. The work of active verification requires a rapid and proper response from the institutional bodies responsible for the act being verified or with jurisdiction over it. Still more important, administrative action must be taken to determine the responsibility of judicial officials and it must produce concrete results, so that those responsible are punished.

61. The information provided by the Division concerning judges who after active verification were deemed to have been derelict in their duty were in a good percentage of cases handled promptly by the Supreme Court of Justice, which initiated the necessary administrative proceedings in a timely manner. The hope is that the proceedings will result in appropriate penalties, although this has not yet been the case.

62. Due process of law is both a personal right of citizens and a guarantee that the State has the duty to ensure. Thus, verification of due process of law is concerned both with the State's duty to guarantee that right and with the right of the citizen to the full and impartial provision of this guarantee. The seventh report of the Human Rights Division described the results of a study of violations of due process of law and noted that "the main categories of violated rights are those pertaining to the right to be tried by a competent tribunal within a reasonable period of time, the legal obligation of the State to prosecute offences, the right to legal counsel and the right not to be subjected to coercion". The report also described the results of a study conducted by the Division on violations of due process of law stemming from the judges' handling of proceedings, and indicated that "the results of this study offer a general overview of the various complaints of violation of due process of law, responsibility for which does not necessarily lie with individual judges since such instances form part of the structural problem of the administration of justice which the peace agreements identified as an area the urgent transformation of which was a sine qua non for the establishment of a modern constitutional State".

63. In the course of verification of 56 of the cases reported to ONUSAL during the three-month period covered by this report, irregularities were found in judicial proceedings, and once again violation of the right to be tried by a competent tribunal occurred most frequently (62.5 per cent of the cases), although this represents an improvement over the preceding period, in which this category accounted for 69.39 per cent of the cases. The results of the verification are shown in the following table:

VIOLATIONS OF THE RIGHT TO DUE PROCESS OF LAW
(August, September, October 1993)

| | | |
|---|---|---|
| 1. | 56 cases verified . . . . . | 100.00% |
| 2. | Right to be tried by a competent tribunal . . . . . | 62.50% |
| 3. | Refusal to conduct a judicial investigation . . . . | 14.90% |
| 4. | Failure to conduct judicial inspection . . . . . | 2.94% |
| 5. | Improper application of the law . . . . . | 2.04% |

## G. Right to freedom of expression

64. The provisions of the Constitution, and widespread government practice, ensure satisfactory enjoyment of freedom of expression in El Salvador.

65. In this context, which in addition constitutes an essential aspect of the democratic process and of the role of society at large in monitoring the protection of human rights, only one complaint of violation of freedom of expression has been declared admissible. However, following the murders of FMLN leaders, a group of demonstrators engaged in acts of violence directed against El Diario de Hoy on 1 November 1993. These acts of vandalism express intolerance and violence that are unacceptable and that threaten freedom of the press and freedom of thought. At the same time, there have been some very isolated but equally reprehensible instances of intimidation of journalists. At its annual meeting, the Inter-American Press Association was able to corroborate the existence of a favourable general atmosphere for the exercise of freedom of the press in El Salvador; at the same time it firmly condemned the isolated instances referred to above.

66. Since the resurgence of violence directed against political leaders and the sharp increase in ordinary violence have coincided with the electoral process, the information media must continue to abide by an information policy which accords with the global objectives of the peace process.

## H. Political rights and the right to identity documents

67. The proximity of the elections requires vigilance on the part of the State authorities and society at large in ensuring full respect for the political rights of citizens without discrimination of any kind. The political plan embodied in by the peace agreements entails a consensual decision to develop a political system which does not exclude any system of ideas or any organization which lawfully competes in the national political arena. This represents a substantive change compared with the situation prior to the conflict, since for the first time in the history of El Salvador in recent decades the social forces which previously opposed the system will now participate in it through

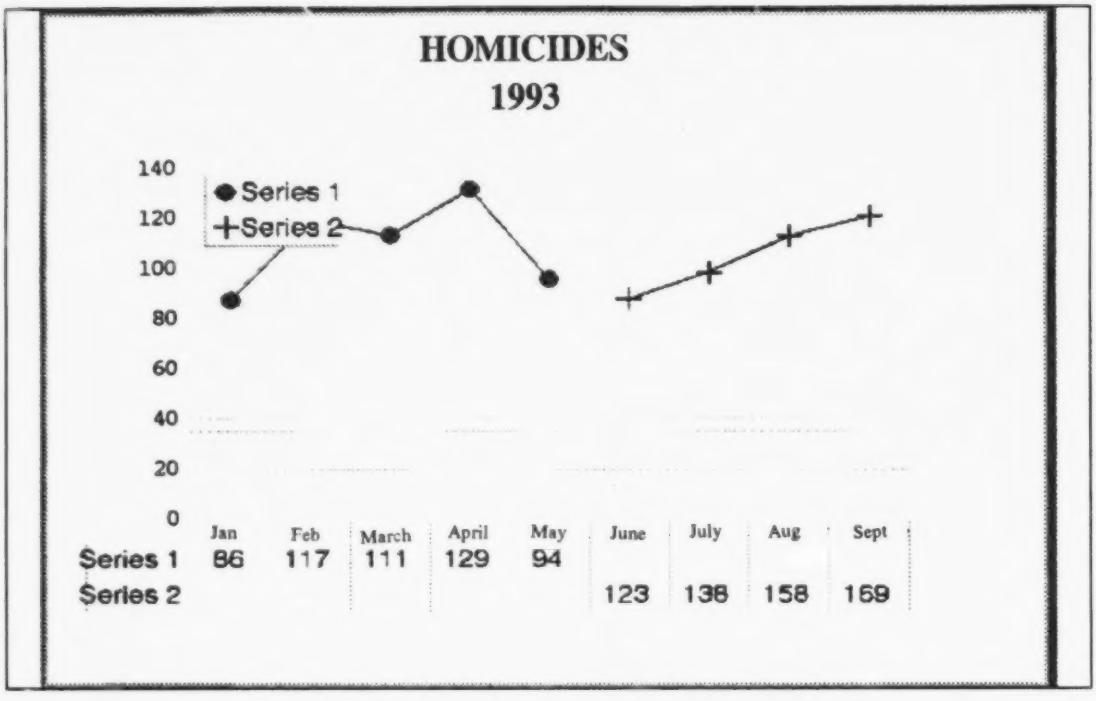
elections. This will undoubtedly constitute a gage of democratic conduct both on the part of the State authorities and on the part of the various sectors of society, in that tolerance of an opponent's ideas and democratic practices of electoral competition will have to prevail over possible temptations to resort illegally to the use of force and other procedures which are incompatible with the rule of law.

68. The interconnection between the effective functioning of the political system, in a lawful and efficient manner, and the maintenance of human rights is a crucial matter on which the democratic future of El Salvador largely depends. This is because human rights violations normally tend to become worse when political intolerance gives rise to the illegal resort to intimidation or the elimination of opponents. The fact that this was normal practice in the recent history of El Salvador, especially during the phase of armed conflict, does not mean that these practices necessarily have to be resumed in the immediate future. The strength of the desire for democracy and of the process of the implementation of the pending agreements, and legal punishment of anyone who commits such acts, should constitute guarantees that will enable the population to participate in the elections with the assurance that this process will be an institutional consolidation of the nation's choice for peace, democracy and human rights.

69. The fact that a number of politically motivated violations have been investigated in recent months indicates, furthermore, that the human rights situation during the electoral process will be critical for the legitimacy of that process. Violations of the rights of candidates and of members of political parties, or intimidation on the basis of the political affiliation of individuals, inevitably creates a threatening atmosphere which may inhibit the political participation of citizens in the legitimate exercise of their rights.

## I. The situation of violence and human rights

70. The sixth report of the Human Rights Division, issued on 5 April 1993, included a section analysing ordinary crime, in view of the high level of criminality that had already been detected at that time, and noted, in particular, that "the situation of violence is relevant to the evolution of human rights, in that it has an impact on the social environment in which those rights must be exercised and may become a front behind which serious violations of human rights, such as political murders, masquerade as ordinary crimes" (A/47/912-S/25521, para. 197).

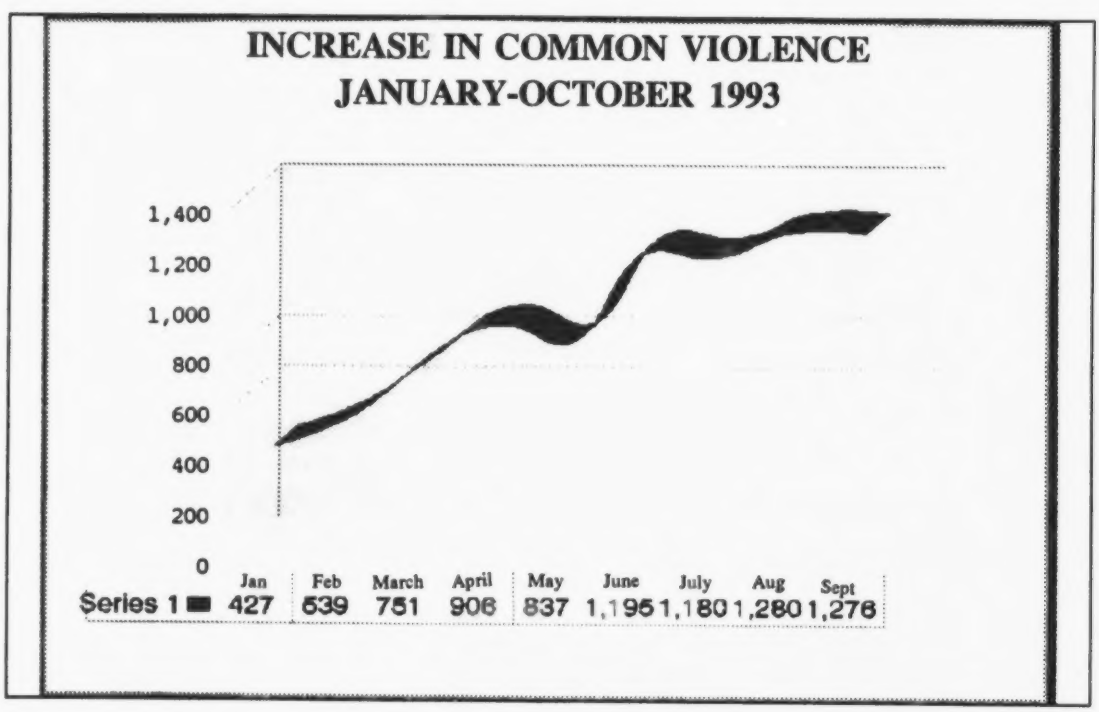



71. The development of the situation with regard to ordinary violence over the past seven months has confirmed those fears. Between January and September 1993, ordinary violence increased by some 300 per cent, rising from 427 criminal acts in January to 1,276 in September. These statistics refer only to the incidents recorded by ONUSAL, which means that the actual level of crime is bound to be higher. The increasing number of homicides is particularly disturbing: 1,125 in nine months, or an average of 125 homicides a month. Of that total, 64.44 per cent were carried out with firearms, for the most part military weapons. The increase in homicides has been steady. In January, there were 86; in March, 111; in June, 123; in August, 158; and in September, 169.

72. The Human Rights Division must insist, once again, on three factors contributing to the violence which are linked to the non-fulfilment, delay in or partial fulfilment of commitments stemming from the peace agreements. These are, first, the failure to confiscate military weapons in the hands of the civilian population. This is a problem which, as has been stated repeatedly, is the primary and direct cause of the wave of violence reflected in the number of deaths. An act providing for a large-scale campaign to confiscate military weapons in the possession of civilians has not yet been approved by the Legislative Assembly, and such delay is not consistent with either the urgent need to seek a substantive solution to this problem, or the legitimate demands of the public, which has a steadily growing collective sense of insecurity. Secondly, there are the difficulties, shortcomings and delays in disbanding the

National Police and the efficient deployment of the National Civil Police, with sufficient resources to fight crime. And thirdly, there are the limitations of the process of reintegrating former members of both the armed forces and FMLN. To that should be added the still-evident failure to investigate crime which contributes to a sense of impunity. The Secretary-General himself has expressed his concern at the "denial to the National Civil Police of the necessary logistical and technical resources, the introduction into that force of military personnel, the prolongation of the existence of the National Police and the denial to ONUSAL of the information it requires for verification purposes" (S/26790, para. 89).

73. The Human Rights Division, in the light of the growing presence of organized criminal groups and the troubling and verified occurrence of "contract" crimes (including homicides), has an obligation to draw attention to the links which could exist between phenomena specific to common crime and politically motivated human rights violations. In view of the indications and evidence of the reactivation of so-called death squads, and the existence of criminal organizations and hired killers, it is legitimate and prudent to take that situation into account.



## II.3 ACTIVE VERIFICATION OF OTHER COMMITMENTS ESTABLISHED IN THE PEACE AGREEMENTS AND HAVING HUMAN RIGHTS AND INSTITUTIONAL SUPPORT COMPONENTS

### A. The administration of justice

74. A substantial number of legislative initiatives, which are part of the judicial reform provided for in the peace agreements, and others stemming from the recommendations of the Commission on the Truth and the Human Rights Division, have not yet been adopted. In view of the need for a more rigorous drive to implement these agreements and recommendations, ONUSAL is discussing with the parties a suitable time-frame for complying with such obligations. As part of the process leading to the fulfilment of these commitments, the Government has taken the positive step of submitting to the Legislative Assembly preliminary bills relating to the reform of the code of penal procedure, the abrogation of emergency laws and the abolition of extrajudicial confession. The prompt approval of those bills by the Legislative Assembly, within the time-frame eventually worked out, will be a constructive step in the process of judicial reform. A similar procedure should be agreed on for the other legislative initiatives not yet adopted, especially those which affirm the independence of the justice system.

75. The President of the Supreme Court of Justice has submitted to the Legislative Assembly draft decrees containing reforms of the Act organizing the judiciary and the Act on the National Council of the Judiciary, which drafts were formulated by the Court "taking into account the commitments made by the Government of the Republic with regard to the judicial reform, in accordance with the framework established by the Chapultepec peace agreements". In addition, the President of the Supreme Court of Justice, with a view to "implementing the recommendations of the Secretary-General of the United Nations with regard to decentralizing the functions of the Presidency of the Supreme Court of Justice", has submitted to the Minister and Chief of Staff in the Office of the President an administrative reorganization proposal for the judicial branch. In its sixth report, the Human Rights Division had stressed the need for an institutional and functional reform of the judicial branch. From the standpoint of compliance with that recommendation, it is encouraging that the Court agrees in principle on the need for such a reform, since that could be the point of departure for implementing the recommendation, on the basis of several wide-ranging proposals, including the proposal of the Court. For its part, the National Council of the Judiciary has also prepared a draft decree amending its establishing Act, for the purpose of adapting it to the recommendations of the Commission on the Truth and the Human Rights Division. ONUSAL is carrying out technical studies of all these legislative initiatives so as to verify their compatibility with the relevant provisions of the peace agreements and the recommendations of the Human Rights Division and the Commission on the Truth.

## B. The Office of the National Counsel for the Defence of Human Rights

76. The Office of the National Counsel for the Defence of Human Rights has continued to carry out its activities with a dual focus, namely, a sustained effort to strengthen itself institutionally, and an increase in the scope of its efforts to protect human rights. In accordance with the recommendations of the Commission on the Truth, the Office has initiated an internal process of evaluating its institutional and functional structure with a view to adapting it strictly to the constitutional provisions and requirements of an effective effort to protect human rights, which reflects the priorities deriving from the current human rights situation in El Salvador. The Office has taken positive steps to resolve labour conflicts where human rights are at stake. The decision issued by the Counsel concerning the health-care workers' work stoppage, which was finally settled by consensus after more than 30 days, constitutes an especially important precedent in this regard.

77. The Office is receiving the international cooperation which its activities require. If it is to exercise all the powers conferred on it by the Constitution, while simultaneously strengthening its institutional capacity, a much broader external cooperation effort will be needed; accordingly, the Human Rights Division is appealing to the bilateral and multilateral financing sources to support this process of strengthening an institution established by the peace agreements and designed to carry out, together with non-governmental organizations, the systematic monitoring of respect for human rights in El Salvador.

78. From that same standpoint, the Human Rights Division deems it appropriate to restate its recommendation that the Office be provided by the central Government with the resources which its activities require, in the amounts and terms deriving from its action plans, as well as the need for legal reforms to ensure that the Office has the proper degree of independence in its financial and budgetary management.

## C. Human rights components of the reform of the armed forces and the security forces

79. In its previous reports, the Human Rights Division has expressed its satisfaction at the positive manner in which the armed forces took on the task of implementing the provisions of the peace agreements relating to the human rights components of military training. The implementation of these aspects of the agreements is proceeding satisfactorily with the technical cooperation of the Human Rights Division.

80. With regard to the profile of the reorganized armed forces and the transfer of intelligence operations to the State Intelligence Agency, from a formal point of view, as mentioned in previous reports, the provisions of the peace agreements have been complied with. However, in the sixth report, the Human Rights Division stated: "It is essential that, in the new intelligence agency, normative and functional elements be established that will enable the State Intelligence Agency to carry out its functions as provided for in the peace

agreements; the latter define State intelligence as 'a State function for the common good, free from all considerations of politics, ideology or social position or any other discrimination; and strict respect for human rights' ... This entire process has just entered an intermediate phase of development and it will take time before the reforms result in an efficient system of professional training based on a democratic conception of the function of the armed forces" (A/47/912-S/25521, paras. 259 and 260). In that sense, under current circumstances, strict adherence to the provisions of the peace agreements in all matters relating to the composition, structure, personnel and functions of the State Intelligence Agency is essential. Accordingly, the activities of the Military Intelligence Battalion should be in strict conformity with constitutional provisions and the functions of the armed forces in a democratic society; in other words, they should be tightly restricted to intelligence linked to national defence. That is a pressing need in the current situation, for, as the Secretary-General reported to the Security Council, "It is not fully clear that the above provisions have been adequately complied with" since "Concerns also persist that the military intelligence establishment may still be involving itself with internal security matters" (S/26790, paras. 14 and 89).

## III. ANALYSIS OF TRENDS IN THE HUMAN RIGHTS SITUATION IN EL SALVADOR

### 1. General observations

81. As noted in the introduction to this report, the methodology which the Director of the Human Rights Division has been using in order to keep the Secretary-General informed of developments in active verification, in compliance with the mandate contained in the San José Agreement, consists of the preparation, every three months, of status reports and, following aggregate periods, the presentation of evaluations designed to identify broader trends in the human rights situation in El Salvador. This report presents a summary of the analysis of trends for the period of 10 months from January to October 1994.

2. Peace has created improved conditions for the observance of human rights, whose enjoyment depends on strict implementation of the agreements

82. An initial evaluation involves comparing the human rights situation during the armed conflict with the situation existing after the signing of the peace agreements. This point of view makes it possible to determine the impact of the peace agreements and their implementation on the reality of human rights, and to establish the scope of the changes in the social, political and legal environment, which affects the exercise by the population of its rights.

83. During the conflict in El Salvador, grave, systematic and mass violations of human rights were perpetrated. Between 1980 and 1990, the situation in El Salvador attracted the attention of the international community, and the United Nations system of international protection, through the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights and the General Assembly, adopted a number of measures in response to that extremely serious situation. The end of the armed conflict, the restructuring of the State and society, including the political system, initiated by the peace agreements, have opened the way for a substantive and positive change in the protection and exercise of human rights. It is an incontrovertible fact that the grave and systematic violations of human rights, which gave rise to international monitoring, are no longer a fact of life in El Salvador. The conflict has given way to peace. A political regime that excluded important sectors of society has been replaced by a democratic process that has enlisted the former guerrilla forces as a legitimate political party. Moreover, the peace agreements, which have brought constitutional, institutional and structural reforms, are currently being implemented; all the reforms are designed to establish a State based on rule of law, and the legitimacy of the State is the best guarantee for the protection of human rights. Generally speaking, there has been a qualitative change in the social, legal and political conditions in which Salvadorians can exercise their rights. In that regard, the structural situation that led to grave and systematic violations in the 1980s, which resulted in the establishment of international monitoring mechanisms under the auspices of the Economic and Social Council of the United Nations, has been replaced by the construction of a democratic society based on national reconciliation.

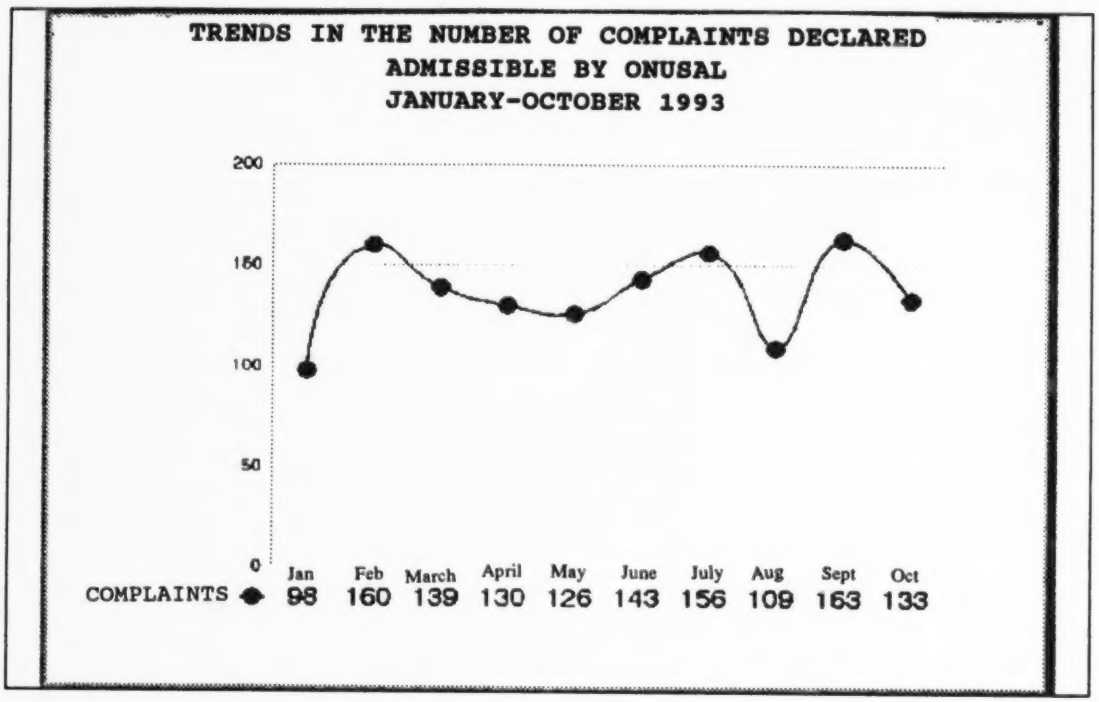
84. Although the implementation of the peace agreements is a process whose end results will be apparent only when the institutions and the democratic rule of law are functioning efficiently, there is no doubt that the human rights situation in the post-conflict era has, in general, significantly improved and the current institutional, political and legal "environment" is much more favourable than was the case during the armed conflict. This first criterion for analysis makes it possible to state that the peace agreements and their implementation have had, and continue to have, an exceptionally important and wide-ranging impact on the improvement of the human rights situation in El Salvador.

### 3. Human rights during the implementation of the peace agreements: a disturbing backsliding trend

85. However, a second criterion for evaluating the trends in the human rights situation is not concerned with an overall comparison of the situation that existed during the war and the positive changes that have taken place since the signing of the peace agreements but with the specific assessment of the enjoyment of human rights in the context of peace, national reconciliation, the implementation of structural and institutional reforms and, in general, the building of a State based on the rule of law and democracy. In this respect, the evaluation should be conducted on the basis of specific events and situations and the imperative demand for respect for human rights required by the democratic institutions that have been established as a result of the peace accords.

86. Based on this criterion, a composite analysis of developments in the human rights situation during the past 10 months makes it possible to discern two quite distinct phases. The first phase covers the period from January to May, during which the situation evolved unevenly, with strengths and weaknesses; there was a clear downward trend in the commission of such acts as forced disappearances or torture, and an improvement in the overall political situation. The second phase, covering the period from June to October, was marked by a progressive worsening of the situation leading to a grave deterioration of the situation in October, characterized by an upsurge of selective violence against citizens who were openly engaged in politics, as well as death-squad-style murders.

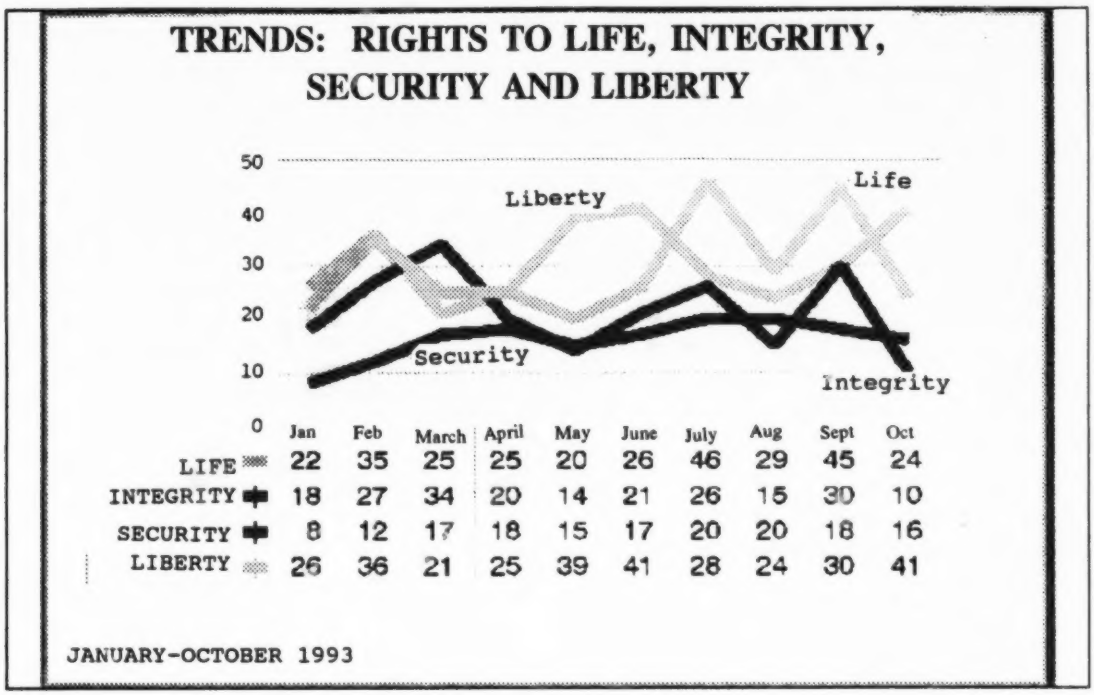
87. In the context of the transition from an uneven situation, which was marked by some positive developments, to a serious deterioration that has alarmed the citizens of El Salvador and the international community, the quantitative indicators are quite telling. Thus, the average monthly number of extralegal executions, attempted arbitrary executions and death threats was greater during the period from June to October than during the preceding five months. The indicators are similar in the cases of undue use of force, kidnappings, other kinds of threats, violations of due process of law and arbitrary detention. The statistical annex to this report contains composite statistics for January-October.


TRENDS IN THE NUMBER OF COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL JANUARY-OCTOBER 1993
200
150
100
50
0
Jan Feb March April May June July Aug Sept Oct
COMPLAINTS 98 160 139 130 126 143 156 109 163 133

4. Persons presumed responsible for human rights violations: the case of the National Police

88. With regard to complaints concerning persons presumed responsible, the situation of the National Police is extremely serious, since 478 complaints out of a total of 1,357 were made against it. The large number of complaints made against the National Police, almost all of which were verified by ONUSAL, dramatically reveals the negative effect that delays in disbanding the National Police and the deployment of the National Civil Police have had on the human rights situation.

89. The peace agreements established the National Civil Police in the belief that, in order to guarantee peace, El Salvador must have a security body which has a new institutional mandate and operates in accordance with democratic principles and the concept of public security as a service provided by the State to its citizens: a body that is free of any considerations based on politics, ideology, social position or any other bias, respects human rights and is subordinate to the constitutional authorities. In other words, a police force that is subject to a State based on the rule of law and to legality and replaces the National Police, whose distinguishing trait up to now has been its arbitrary and discriminatory behaviour, which is on the margin of legality and violates basic rights.


TRENDS: RIGHTS TO LIFE, INTEGRITY, SECURITY AND LIBERTY
50
40
30
20
10
0
Liberty
Life
Security
Integrity
Jan Feb March April May June July Aug Sept Oct
LIFE 22 35 25 25 20 26 46 29 45 24
INTEGRITY 18 27 34 20 14 21 26 15 30 10
SECURITY 8 12 17 18 15 17 20 20 18 16
LIBERTY 26 36 21 25 39 41 28 24 30 41
JANUARY-OCTOBER 1993

90. The active verification carried out by ONUSAL clearly shows that the National Police, throughout the transition process, has been continuing to behave in a manner which is not in keeping with legality and systematically results in human rights violations. During the period from June to September of this year, it was verified that the National Police continues to be responsible for arbitrary executions, such as the one carried out against Héctor David Segovia Verillos, who was executed on 9 July following his arrest. Police officers Enrique Cerna, Dagoberto Estrada Saravia, Luis Armando Laurea and Rudy Sánchez Escobar, from the National Police at San Miguel (Fifth Command), were responsible and, to date, have not been punished. It was also verified that there had been an attempted arbitrary execution of José Antonio Pérez Hernández when he sustained a bullet wound as a result of an attack carried out by two officers of the National Police in Aguilares.

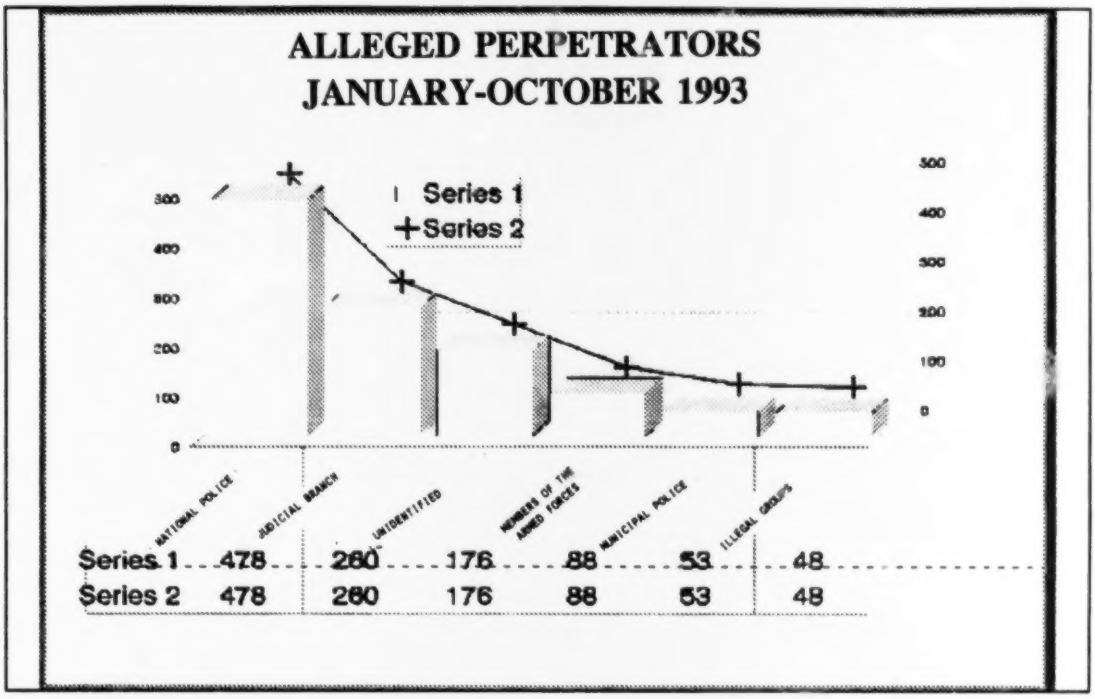
91. It is a matter of particular concern to the Division that in recent months the National Police has again resorted to practices involving torture, as were verified in the case of Manuel de Jesús Hernández, who, while under arrest, was tortured early in the morning of 19 August by officers of the National Police from the Fifth Command Headquarters in San Miquel. According to testimony, they were reproached for "not having killed" the victim when they had the opportunity. Mauricio Gómez Campos was also tortured by officers of the National Police while he was being held arbitrarily in the cells of the Fifth Command Headquarters in San Miguel on 6 September. The motive for using torture was to find grounds for convicting him.

92. In the same way, the recurrent practice of ill-treatment by officers of the National Police demonstrates once more the arbitrariness and unlawfulness with which that body operates as well as the repressive and intimidatory attitude that underlies the training given to its members. The following cases illustrate this situation: José Ismael Ochoa Cruz, who was beaten in the street on 12 August by officers from the Fifth Command Headquarters of the National Police in San Miguel because he had tattoos on his arms and chest, was subsequently arrested arbitrarily; Marlon Giovani Hernández Campos, who, after being arbitrarily arrested, was punched, kicked and struck with rifle butts on 6 June while he was in handcuffs in front of and inside the National Police unit in Lolotique; Abel José Padilla, who was attacked on 29 August by the National Police commander in Chalcuapa, Santa Ana; Lieutenant Adolfo Martínez Zetino, who, under similar circumstances, beat five other persons and was transferred to that post from the town of Metapán for repeated misconduct.

93. There is a very similar situation in the cases of excessive use of force. During the period referred to in this analysis of trends, the cases involving Ricardo Orellana Valencia stand out: when captured on 1 July, he was severely beaten by officers of the National Police in Berlín. The officers who participated in his arrest were: Jorge Alberto Pameres Mendoza, Ramón Antonio Rivera, Jorge Alberto Ramos Galán, Gerardo Eliseo Quintanilla, Rubén Antonio Guevara Vásquez, Pablo Vitelio Mendoza and Jorge Antonio Reyes Granados. In addition, there are a number of cases that are particularly serious because they involve abuse by National Police officers of the weapons assigned to them. Two of these cases are reported to have resulted in the death of the victim: Carlos Alberto Deras Rivas, who was shot on 7 July by officers of the National Police in Mejicanos and subsequently died; and Angel Mendoza Villatoro, who was killed on 19 July by Guillermo Antonio Ortega Campos, an officer of the National Police in Yucuaiquín. Other cases of excessive use of force by officers of the National Police were reported against Julio César Mena Girón on 13 September by the National Police in San Salvador; José Enrique Santo, by National Police officers from the Fifth Command Headquarters in San Miguel; and Oscar Amaya Guardado, on 3 July, by Juan Pablo Araniva, a National Police officer in Mejicanos.

94. Likewise, officers of the National Police abuse their authority and regularly threaten citizens. The following cases are representative: Jorge Alberto Morales Duarte, who, because of his trade-union and political activities, was subjected to intimidatory acts by the National Police in Santa Tecla, on 28 August when National Police officers illegally entered the house of his mother-in-law, Mrs. Marina Zúñiga, causing material damage (Mrs. Zúñiga was subsequently threatened); Idalia del Carmen Guerrero Cruz and Hilda Maribel Carillo Escobar, victims of threats by Alfaro Serrano, a National Police officer in Zacatecoluca, who warned them not to pursue legal action for rape that they had initiated against Rodolfo Ramírez, a bodyguard of a colonel in the Armed Forces of El Salvador, Oscar Rodezno.

95. The National Police systematically make arbitrary arrests. The following arrests can be cited as examples: Betty del Carmen Alvarado Díaz, by the Lourdes National Police on 1 August; Juan Diego Aguilar Flores, by the Zacamil National Police on 1 June; Marvin Arnoldo Alvarez Sánchez and José María Hernández, by the San Miguel National Police (Fifth Command) on 24 August.




96. Fulfilment of the commitment regarding the complete disbandment of the Salvadorian National Police has repeatedly been postponed, which has undoubtedly been a factor generating human rights violations. There is an urgent need to expedite the disbandment of the National Police. That will mean substantial progress in the implementation of the peace agreements; such a decision will, through the deployment of the National Civil Police, result in conditions more conducive to respect for human rights on the part of the security forces. However, in what remains of the transitional period, the Government has a responsibility to ensure that the National Police acts strictly in conformity with law and order, since there are indications and evidence that, as the date of its complete disbandment draws nearer, a higher number of illegal acts and human rights violations are being committed by the National Police.

### 5. The reactivation of illegal groups known as "death squads"

97. As the final phase of the peace agreements draws near - especially the entry into force of the new political system, characterized by the participation of all national sectors, without discrimination of any kind, which will mean the final reintegration of former guerrilla fighters into the democratic life of the country - the illegal armed groups known in El Salvador as "death squads" have been reactivated. This situation has been a source of concern to the Secretary-General, who, in his most recent report to the Security Council, noted

that "[p]articularly worrying are the activities of the so-called 'death squads'. Taking on names used in the past, or using newly created ones, these illegal groups have been the authors of numerous death-threats with clearly political connotations. At the same time, groups who purport to take the law into their own hands against supposed common delinquents have also been making death-threats and carrying out murders. The emergence of criminal organizations of this type seriously affects the stability of the peace process by eroding confidence and security, which are its fundamental bases" (S/26790, para. 44).

98. The Commission on the Truth recommended, as a preventive measure, an investigation of these groups with a view to their elimination. In the section of its report entitled "The death squad pattern", the Commission noted that these illegal armed groups have been one of "the most horrendous sources of the violence which swept the country in recent years ... All necessary measures must be taken to ensure that they are disbanded. Given the country's history, prevention is essential in this area" (S/25500, p. 180). In the section on "Findings" relating to that subject, the Commission listed a number of criteria which, because of their relevance for the future, should be part of the background to the investigation of the activities of these illegal armed groups.

99. The Human Rights Division has verified activities of the "death squads" "Ejército Secreto Salvadoreño", "Brigada Maximiliano Hernández Martínez" and "Escuadrón Los Angeles de la Muerte", in the terms referred to in this report. In addition, there have been reports of some surviving structures of organizations which spread terror in the past; they are being investigated. Some of the military personnel held in Santa Ana prison for crimes committed as members of "death squads" during the past decade have also claimed to have information regarding activities and current leaders of these illegal armed groups.

100. The decision to establish a joint unit to investigate illegal armed groups, suggested by the Secretary-General and the Security Council, has long been awaited by the Salvadorian people. The "death squads", meaning organized groups which carry out selective violence in a clandestine manner, concealing the identity of their members, for the purpose of acquiring or maintaining political or social control, are criminal organizations incompatible with the peace agreements, a democratic legal system and the commitment of the parties to consolidate law and order. The fact that the Government has welcomed the Secretary-General's proposal and has worked constructively to establish a joint investigation unit constitutes a wholesome example of political transparency, commitment to law and order and an institutional will to carry out an effective and independent investigation, which should be assessed in a positive light by domestic political forces and the international community.

## IV. FINDINGS

101. The status report for the period from August to October 1993 indicates a serious regression in the human rights situation in El Salvador, especially because of the increase in politically motivated violations and the perpetration of crimes similar to those committed in the past by "death squads", which have been reactivated as described in paragraph 7 of this report.

102. The analysis of trends during the aggregate period from January to October 1993 reveals a complex situation, in that an ambiguous trend with clearly positive aspects has been taking a regressive turn, which has become serious in recent months. This situation, with the trends identified by the Human Rights Division of ONUSAL, could be further aggravated during the electoral process and in the immediate post-electoral period. Should this assumption prove correct, the situation would be extremely serious, and all political forces have a duty to prevent that from happening, since, as the Secretary-General has recalled, "respect for human rights [is] a sine qua non for the success of the peace process and for the consolidation of a democratic society" (S/26790, para. 45).

103. Preventing this situation is the responsibility of the State, the judicial branch, the Office of the National Counsel for the Defence of Human Rights, political and social forces and the population as a whole. The violence which has emerged in El Salvador in recent months is not aimed at any one social and political sector, but at the entire nation, in that it threatens the peace agreements and the building of a democratic society, on which there is a firm national consensus involving all political forces and the public at large.

104. An effective method of isolating and eliminating these sources of violence should be accompanied by strict implementation of the peace agreements, especially those which have a direct and indirect impact on the situation of human rights or common violence. In that connection, as the Secretary-General has pointed out, establishing a timetable for the effective implementation of the pending agreements is essential. As the Secretary-General has stated, the immediate future of the human rights situation will depend "on the country's capacity to reverse the regressive trends that have been detected in recent months, on the effective operation of the institutions created by the Peace Accords, especially the National Counsel for the Defence of Human Rights, and on the effective deployment of the National Civil Police. Progress will also depend on the implementation of the pending recommendations of the Commission on the Truth concerning the judiciary" (S/26790, para. 88).

105. Encouraging signs, in that connection, are the Government's positive response to these developments, especially the fact that it invited the Federal Bureau of Investigation (FBI), Scotland Yard and Spanish police experts to advise national bodies in the investigation of assassinations of political leaders, and the establishment of a joint unit to investigate illegal armed groups. Another positive sign is the unanimous pledge by the Salvadorian presidential candidates to shoulder full responsibility for the commitments contained in the peace agreements. It is also urgent and essential for the Secretary-General's proposed investigation of illegal armed groups in

El Salvador to be initiated as soon as possible and to be provided with a legitimate, reliable and credible investigation mechanism.

106. The serious regression seen in the period under review reveals the accuracy of some assessments made by non-governmental organizations, namely, that the progress achieved in relation to the past could easily be reversed, since the effective functioning of institutions linked to public security, the administration of justice and the protection of constitutional respect for human rights is still insufficient. From that standpoint, the work of non-governmental organizations emerges, once again, as an irreplaceable guarantee of proven effectiveness in protecting human rights and reporting violations. The Salvadorian non-governmental organizations constitute a guarantee of protection with which society has provided itself; because of their efficiency, independence and freedom of conscience, they are the most functional means of supplementing international verification procedures.

107. The developments reported above have, to some extent, tested the strength of the human rights components of the peace agreements. Over and above any redressable situation to which attention has been drawn in the preceding paragraphs, the response of the State and society, the Government and the opposition political parties, public opinion and the public at large has been a unanimous rejection of violence and, in particular, violence which is politically motivated. That, together with the common will of the Government, FMLN and other political institutions to investigate the activities of illegal armed groups through the Joint Investigation Group, constitutes a firm reality which should make it possible, in the immediate future, to overcome the problems identified in this report.

Statistical analysis of the situation for the period August-October 1993

COMPLAINTS DECLARED ADMISSIBLE

August-October 1993

Table No. 1

| Complaints declared admissible | August | September | October | Total |
|---|---|---|---|---|
| VIOLATIONS OF THE RIGHT TO LIFE | | | | |
| Arbitrary executions | 10 | 14 | 13 | 37 |
| Attempted arbitrary executions | 2 | 4 | 4 | 10 |
| Death threats | 17 | 27 | 7 | 51 |
| VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON | | | | |
| Torture | 0 | 4 | 0 | 4 |
| Ill-treatment | 9 | 21 | 9 | 39 |
| Excessive use of force | 6 | 5 | 1 | 12 |
| VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON | | | | |
| Enforced disappearances | 1 | 1 | 1 | 3 |
| Abductions | 5 | 1 | 0 | 6 |
| Other threats | 14 | 14 | 15 | 43 |
| VIOLATIONS OF DUE PROCESS OF LAW PROCEDURAL GUARANTEES | | | | |
| Right to be tried by a tribunal within a reasonable period of time | 2 | 3 | 4 | 9 |
| Right to defence | 2 | 1 | 4 | 7 |
| Right not to be coerced | 6 | 2 | 4 | 12 |
| Right to judicial review | 0 | 0 | 0 | 0 |
| RIGHT TO JUSTICE | | | | |
| Legal obligation of the State to investigate and punish | 7 | 29 | 25 | 61 |
| Right to compensation | 0 | 0 | 1 | 1 |

| Complaints declared admissible | August | September | October | Total |
|---|---|---|---|---|
| VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM | | | | |
| Arbitrary detentions | 12 | 24 | 32 | 68 |
| Arbitrary detentions for petty misdemeanours | 9 | 6 | 5 | 20 |
| Procedural guarantees | 3 | 0 | 4 | 7 |
| VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION | 0 | 1 | 0 | 1 |
| VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION | | | | |
| Right to associate freely | 3 | 2 | 2 | 7 |
| Freedom of assembly | 0 | 0 | 0 | 0 |
| Trade union freedom | 1 | 2 | 1 | 4 |
| VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS | | | | |
| To obtain personal identification documents | 0 | 1 | 1 | 2 |
| To obtain civil status documents | 0 | 1 | 0 | 1 |
| TOTAL | 109 | 163 | 133 | 405 |

COMPLAINTS DECLARED ADMISSIBLE BY CATEGORY OF RIGHT VIOLATED

August-October 1993

(percentages)

Table No. 2

| Violation | August | September | October | Total |
|---|---|---|---|---|
| Life | 26.61 | 27.61 | 18.05 | 24.09 |
| Integrity | 13.76 | 18.4 | 7.52 | 13.22 |
| Security | 18.35 | 9.82 | 12.03 | 13.4 |
| Due process | 15.6 | 21.47 | 28.57 | 21.88 |
| Personal freedom | 22.02 | 18.4 | 30.83 | 23.75 |
| Freedom of expression | 0 | 0.61 | 0 | 0.2 |
| Freedom of association | 3.67 | 2.45 | 2.26 | 2.79 |
| Personal documentation | 0 | 1.23 | 0.75 | 0.66 |
| TOTAL | 100 | 100 | 100 | 100 |

## PERSONS PRESUMED RESPONSIBLE FOR VIOLATIONS

### August-October 1993

Table No. 3

| | August | September | October | Total | Percentage |
|---|---|---|---|---|---|
| Members of national police | 36 | 49 | 33 | 118 | 29.14 |
| Irregular groups (death squads, etc.) | 2 | 3 | 5 | 10 | 2.47 |
| Persons unknown | 19 | 31 | 15 | 65 | 16.05 |
| Members of municipal police | 6 | 4 | 2 | 12 | 2.96 |
| Members of national civil police | 3 | 5 | 20 | 28 | 6.91 |
| Members of armed forces | 6 | 7 | 3 | 16 | 3.95 |
| Public prosecutor's office | 0 | 0 | 0 | 0 | 0 |
| Administration | 0 | 8 | 1 | 9 | 2.22 |
| Judiciary | 14 | 32 | 34 | 80 | 19.75 |
| Anti-drug-trafficking unit | 5 | 6 | 5 | 16 | 3.95 |
| Criminal investigation commission | 0 | 1 | 2 | 3 | 0.74 |
| FMLN | 5 | 2 | 0 | 7 | 1.73 |
| Other | 13 | 15 | 13 | 41 | 10.12 |
| TOTAL | 109 | 163 | 133 | 405 | 100 |

## Statistical analysis of trends over the period January-October 1993

### COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL

January-October 1993

Table No. 4

| Complaints declared admissible | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| VIOLATIONS OF THE RIGHT TO LIFE | | | | | | | | | | | |
| Arbitrary executions | 12 | 15 | 6 | 11 | 11 | 16 | 16 | 10 | 14 | 13 | 124 |
| Attempted arbitrary executions | 2 | 1 | 2 | 3 | 3 | 1 | 5 | 2 | 4 | 4 | 27 |
| Death threats | 8 | 19 | 17 | 11 | 6 | 9 | 25 | 17 | 27 | 7 | 146 |
| VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON | | | | | | | | | | | |
| Torture | 0 | 2 | 0 | 1 | 1 | 1 | 0 | 0 | 4 | 0 | 9 |
| Ill-treatment | 15 | 21 | 28 | 12 | 11 | 15 | 16 | 9 | 21 | 9 | 157 |
| Excessive use of force | 3 | 4 | 6 | 7 | 2 | 5 | 10 | 6 | 5 | 1 | 49 |
| VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON | | | | | | | | | | | |
| Enforced disappearances | 0 | 3 | 0 | 1 | 0 | 1 | 0 | 1 | 1 | 1 | 8 |
| Abductions | 2 | 0 | 3 | 2 | 1 | 0 | 4 | 5 | 1 | 0 | 18 |
| Other threats | 8 | 9 | 14 | 15 | 14 | 16 | 16 | 14 | 14 | 15 | 135 |
| VIOLATIONS OF DUE PROCESS OF LAW | | | | | | | | | | | |
| PROCEDURAL GUARANTEES | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 2 |
| Right to be tried by a tribunal within a reasonable period of time | 8 | 12 | 2 | 6 | 4 | 4 | 5 | 2 | 3 | 4 | 50 |
| Right to defence | 3 | 8 | 1 | 3 | 2 | 2 | 2 | 2 | 1 | 4 | 28 |
| Right not to be coerced | 1 | 6 | 1 | 1 | 0 | 1 | 2 | 6 | 2 | 4 | 24 |
| Right to judicial review | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| RIGHT TO JUSTICE | | | | | | | | | | | |
| Legal obligation of the State to investigate and punish | 4 | 17 | 30 | 27 | 25 | 28 | 24 | 7 | 29 | 25 | 216 |
| Right to compensation | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 3 |
| VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM | | | | | | | | | | | |
| Arbitrary detentions | 16 | 16 | 10 | 17 | 31 | 25 | 18 | 12 | 24 | 32 | 201 |
| Arbitrary detentions for petty misdemeanours | 5 | 16 | 9 | 6 | 5 | 5 | 8 | 9 | 6 | 5 | 74 |

| Complaints declared admissible | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Procedural guarantees | 5 | 4 | 2 | 2 | 2 | 11 | 2 | 3 | 0 | 4 | 35 |
| VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION | 0 | 3 | 0 | 2 | 1 | 0 | 0 | 0 | 1 | 0 | 7 |
| VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Right to associate freely | 3 | 2 | 5 | 2 | 3 | 2 | 1 | 3 | 2 | 2 | 25 |
| Freedom of assembly | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Trade union freedom | 1 | 0 | 0 | 0 | 3 | 1 | 0 | 1 | 2 | 1 | 9 |
| VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS | | | | | | | | | | | |
| To obtain personal identification documents | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 3 |
| To obtain civil status documents | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 4 |
| TOTAL | 98 | 160 | 139 | 130 | 126 | 143 | 156 | 109 | 163 | 133 | 1357 |

COMPLAINTS DECLARED ADMISSIBLE BY CATEGORY OF RIGHT VIOLATED

January-October 1993 (percentages)

Table No. 5

| Violation | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Life | 22.4 | 21.8 | 17.99 | 19.23 | 15.87 | 18.1 | 29.5 | 26.61 | 27.6 | 18.05 | 21.728 |
| Integrity | 18.3 | 16.8 | 24.46 | 15.38 | 10.36 | 14.7 | 16.7 | 13.76 | 18.4 | 7.52 | 15.653 |
| Security | 10.2 | 7.5 | 12.23 | 13.85 | 11.9 | 11.9 | 12.8 | 18.35 | 9.82 | 12.03 | 12.058 |
| Due process | 16.3 | 27.5 | 24.46 | 28.46 | 25.4 | 24.5 | 22.5 | 15.6 | 21.4 | 28.57 | 23.479 |
| Personal freedom | 26.5 | 22.5 | 15.11 | 19.23 | 30.95 | 28.7 | 17.9 | 22.02 | 18.4 | 30.83 | 23.217 |
| Freedom of expression | 0 | 1.88 | 0 | 1.54 | 0.79 | 0 | 0 | 0 | 0.61 | 0 | 0.482 |
| Freedom of association | 6.12 | 1.25 | 4.32 | 1.54 | 4.76 | 2.1 | 0.64 | 3.67 | 2.45 | 2.26 | 2.911 |
| Personal documentation | 0 | 0.63 | 1.44 | 0.77 | 0 | 0 | 0 | 0 | 1.23 | 0.75 | 0.482 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

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**PERSONS PRESUMED RESPONSIBLE FOR VIOLATIONS**

January-October 1993

Table No. 6

| Persons presumed responsible | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Total | Percentage |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Members of national police | 36 | 53 | 65 | 41 | 53 | 51 | 61 | 36 | 49 | 33 | 478 | 35.22 |
| Irregular groups (death squads, etc.) | 1 | 1 | 4 | 5 | 12 | 5 | 10 | 2 | 3 | 5 | 48 | 3.54 |
| Persons unknown | 13 | 20 | 11 | 16 | 12 | 15 | 24 | 19 | 31 | 15 | 176 | 12.97 |
| Members of municipal police | 9 | 11 | 4 | 3 | 4 | 6 | 4 | 6 | 4 | 2 | 53 | 3.01 |
| Members of national civil police | 0 | 0 | 1 | 2 | 0 | 4 | 3 | 3 | 5 | 20 | 38 | 2.8 |
| Members of armed forces | 5 | 24 | 11 | 10 | 5 | 7 | 10 | 6 | 7 | 3 | 88 | 6.48 |
| Public prosecutor's office | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 3 | 0.22 |
| Administration | 5 | 1 | 2 | 1 | 0 | 2 | 1 | 0 | 8 | 1 | 21 | 1.55 |
| Judiciary | 14 | 21 | 20 | 33 | 29 | 34 | 29 | 14 | 32 | 34 | 260 | 19.16 |
| Anti-drug-trafficking unit | 0 | 3 | 0 | 4 | 0 | 4 | 0 | 5 | 6 | 5 | 27 | 1.99 |
| Criminal investigation commission | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 3 | 0.22 |
| FMLN | 3 | 5 | 4 | 2 | 6 | 8 | 3 | 5 | 2 | 0 | 38 | 2.8 |
| Other | 12 | 20 | 17 | 12 | 5 | 7 | 10 | 13 | 15 | 13 | 124 | 9.14 |
| Total | 98 | 160 | 139 | 130 | 126 | 143 | 156 | 109 | 163 | 133 | 1 357 | 100 |

VIOLENT CRIME STATISTICS

January-September 1993*

Table No. 7

TOTAL CRIMINAL OFFENCES

| Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Total |
|---|---|---|---|---|---|---|---|---|---|
| 427 | 539 | 751 | 906 | 837 | 1 195 | 1 180 | 1 280 | 1 276 | 8 391 |

HOMICIDES AND INJURIES BY CATEGORY OF WEAPON USED

| | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Total | Percentage |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Total | 134 | 208 | 193 | 258 | 185 | 255 | 261 | 298 | 289 | 2 081 | 100 |
| Firearms | 72 | 117 | 94 | 123 | 88 | 133 | 131 | 130 | 129 | 1 017 | 48.87 |
| Knives | 29 | 56 | 65 | 100 | 61 | 66 | 66 | 92 | 85 | 620 | 29.79 |
| Grenades | 17 | 13 | 7 | 6 | 8 | 8 | 9 | 13 | 1 | 82 | 3.94 |
| Torture | 1 | 2 | 3 | 4 | 3 | 2 | 0 | 5 | 2 | 22 | 1.06 |
| Other | 15 | 20 | 24 | 25 | 25 | 46 | 55 | 58 | 72 | 340 | 16.34 |

HOMICIDES BY CATEGORY OF WEAPON USED

| | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Total | Percentage |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Total | 86 | 117 | 111 | 129 | 94 | 123 | 138 | 158 | 169 | 1 125 | 100 |
| Firearms | 54 | 80 | 66 | 80 | 60 | 92 | 101 | 94 | 98 | 725 | 64.44 |
| Knives | 16 | 24 | 32 | 39 | 22 | 27 | 27 | 43 | 42 | 272 | 24.18 |
| Grenades | 8 | 3 | 3 | 4 | 6 | 1 | 4 | 4 | 0 | 33 | 2.93 |
| Torture | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 3 | 0.27 |
| Other | 8 | 9 | 9 | 6 | 5 | 3 | 6 | 17 | 29 | 92 | 8.18 |

* Source: ONUSAL Police Division.

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Security Council

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GENERAL

S/1994/48
18 January 1994

ORIGINAL: ENGLISH

NOTE VERBALE DATED 14 JANUARY 1994 FROM THE PERMANENT REPRESENTATIVE OF INDIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of India to the United Nations presents his compliments to the Secretary-General and has the honour to inform him that the following measures have been taken by the Government of India to implement Security Council resolution 883 (1993):

(a) Administrative action has been taken to impose an air embargo against the Libyan Arab Jamahiriya in accordance with paragraph 6 of resolution 883 (1993);

(b) A public notification has been issued prohibiting the export of specified items to the Libyan Arab Jamahiriya with effect from 7 January 1994;

(c) The Libyan Embassy in New Delhi has already effected the reduction of staff as envisaged in Security Council resolution 748 (1992).

According to the information available with the Government of India, the only account being operated by the Libyan Arab Jamahiriya in India is the account of the Libyan Embassy. This, being a privileged account, cannot be frozen.

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GENERAL

S/1994/49
18 January 1994

ORIGINAL: ENGLISH

# NOTE VERBALE DATED 14 JANUARY 1994 FROM THE PERMANENT REPRESENTATIVE OF JAPAN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Japan to the United Nations presents his compliments to the Secretary-General and has the honour to transmit herewith the measures taken by the Government of Japan* to implement Security Council resolution 883 (1993) on sanctions against the Libyan Arab Jamahiriya.

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* The text of the measures may be consulted in room S-3545.

94-03042 (E) 190194 190194

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S/1994/50
18 January 1994

ORIGINAL: ENGLISH

# LETTER DATED 18 JANUARY 1994 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The purpose of the present letter is to inform the Security Council of recent developments concerning the mandate of the United Nations Protection Force (UNPROFOR) with regard to Srebrenica and Tuzla, which are two of the safe areas established in Bosnia and Herzegovina by resolution 824 (1993).

The members of the Security Council will be aware of the Declaration issued by the Heads of State and Government that participated in the meeting of the North Atlantic Council at the headquarters of the North Atlantic Treaty Organization (NATO) in Brussels on 10 and 11 January 1994. Paragraphs 23 to 25 of that Declaration refer to the conflict in the former Yugoslavia and read as follows:

> "23. As members of the Alliance, we deplore the continuing conflict in the former Yugoslavia. We continue to believe that the conflict in Bosnia must be settled at the negotiating table and not on the battlefield. Only the parties can bring peace to the former Yugoslavia. Only they can agree to lay down their arms and end the violence which for these many months has only served to demonstrate that no side can prevail in the pursuit of military victory.
>
> "24. We are united in supporting the efforts of the United Nations and the European Union to secure a negotiated settlement of the conflict in Bosnia, agreeable to all parties, and we commend the European Union Action Plan of 22 November 1993 to secure such a negotiated settlement. We reaffirm our determination to contribute to the implementation of a viable settlement reached in good faith. We commend the front-line States for their key role in enforcing sanctions against those who continue to promote violence and aggression. We welcome the cooperation between NATO and the Western European Union in maintaining sanctions enforcement in the Adriatic.
>
> "25. We denounce the violations by the parties of the agreements they have already signed to implement a cease-fire and to permit the unimpeded delivery of humanitarian assistance to the victims of this terrible conflict. This situation cannot be tolerated. We urge all the parties to respect their agreements. We are determined to eliminate obstacles to the

accomplishment of the UNPROFOR mandate. We will continue operations to enforce the no-fly zone over Bosnia. We call for the full implementation of the Security Council resolutions regarding the reinforcement of UNPROFOR. We reaffirm our readiness under the authority of the Security Council and, in accordance with the Alliance decisions of 2 and 9 August 1993, to carry out air strikes in order to prevent the strangulation of Sarajevo, the safe areas and other threatened areas in Bosnia and Herzegovina. In this context, we urge the UNPROFOR authorities to draw up urgently plans to ensure that the blocked rotation of the UNPROFOR contingent in Srebrenica can take place and to examine how the airport at Tuzla can be opened for humanitarian relief purposes."

Immediately after the Declaration was published, France and the United Kingdom of Great Britain and Northern Ireland, which are major contributors of troops to UNPROFOR's Bosnia and Herzegovina Command, drew my attention to the last two sentences of paragraph 25 and stressed the particular importance which they attached to early action by UNPROFOR with regard to Srebrenica and Tuzla. They also put forward ideas about exceptional command-and-control arrangements which they thought would be appropriate for military operations specifically related to the current situation in those two safe areas.

I also received, on 14 and 15 January, démarches in which the Russian Federation reiterated to me its position that any use of force in Bosnia and Herzegovina should be subject to prior consultations by the Secretary-General with the members of the Security Council and that only after such consultations should a decision be made to seek enforcement assistance from any source, including NATO.

As the members of the Security Council are aware, operational arrangements have been in place since August 1993 for the provision by NATO of air power to support UNPROFOR in defending United Nations personnel who may come under deliberate attack from one or other of the conflicting parties in Bosnia and Herzegovina. These arrangements have been tested in a number of exercises and are fully operational. The first decision to initiate the use of air power for this purpose would be taken by me, on the basis of a request by my Special Representative for the former Yugoslavia, acting on a recommendation by the Force Commander of UNPROFOR.

The idea of using air power to support a military operation with regard to Srebrenica and Tuzla gives rise to issues which do not arise in the context of air support for the defence of United Nations personnel. The crucial difference is that the use of air power in the former case implies that UNPROFOR could launch offensive action against Bosnian Serb elements which obstructed - or threatened to obstruct - UNPROFOR's military operations, as opposed to the purely defensive actions implied in the latter case. On 12 January 1994, I accordingly instructed my Special Representative, Mr. Yasushi Akashi, to undertake an urgent preparatory study of the proposal. He delivered his report to me in Geneva on 17 January and I discussed it at length that day with him. Mr. Thorvald Stoltenberg, Co-Chairman of the Steering Committee of the International Conference on the former Yugoslavia, Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, and senior members of the Secretariat.

Mr. Akashi's report reaffirmed the urgent necessity of rotating the contingent in Srebrenica and this was endorsed at yesterday's meeting. Mr. Akashi described his recent efforts with the Bosnian Serb leadership to attain this objective by political agreement. His report confirmed that the use of air power could make an important contribution if a military operation by UNPROFOR should be required to ensure rotation of the contingent.

As regards Tuzla, the meeting's conclusion was that the opening of the main airfield there would improve the flow of humanitarian supplies to the Tuzla safe area, although the land routes currently in use were the most important channel for the delivery of such supplies. The use of air power could help to achieve the opening of the main airfield, if a military operation was necessary for this purpose.

In both cases, however, it was clear that other military assets would also be required as the use of air power, or the threat of its use, could not alone achieve the desired objectives. These other military assets, to be used in conjunction with air power, would be in excess of those currently available to UNPROFOR in Bosnia and Herzegovina.

In the light of yesterday's meeting, I have instructed Mr. Akashi to prepare forthwith detailed plans for military operations, with the use of air power as required, to ensure the rotation of the Srebrenica contingent and the opening of the main airfield at Tuzla and to submit these plans to me as a matter of urgency. I have further asked Mr. Akashi to coordinate this work closely with NATO's Southern Command in Naples and I am today sending Under-Secretary-General Goulding to Brussels to brief the Secretary-General of NATO.

As soon as I have Mr. Akashi's plans, I will revert to the Security Council.

(Signed) Boutros BOUTROS-GHALI

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